



16 August – 11 September 2015
Leuven, Belgium

ADVANCED SUMMER COURSE ON HUMAN RIGHTS, DEVELOPMENT AND TRANSITIONAL JUSTICE

Edited by Sara Lembrechts & Fanny Fröhlich

The training programme is organized jointly by:



With the financial support of:





**Advanced Summer Course on Human Rights, Development and
Transitional Justice**

**16 August – 11 September 2015
Leuven, Belgium**

Report

Edited by Sara Lembrechts & Fanny Fröhlich

ISBN: 9789074751513

D/2016/2818/01

EAN : 9789074751513

Aanvraagnummer : 00042349

Proceedings of the ITP 2015, Leuven

INTRODUCTION	2
COURSE REPORT	3
1. ABOUT THE COURSE	3
2. BACKGROUND AND COURSE CONVENERS	3
3. COURSE OBJECTIVES	4
4. THEMES	5
5. WORKING METHODS	7
LECTURES AND DISCUSSIONS	7
WORKSHOPS	7
PANEL DISCUSSIONS AND ROUND TABLES	8
OPEN FORUM AND 'FLIPPING THE CLASSROOM'	8
6. INFORMATION ABOUT PARTICIPANTS	9
GENDER AND REGIONAL DISTRIBUTION	9
PROFESSIONAL BACKGROUND	11
EDUCATIONAL BACKGROUND	11
7. PROFILE OF LECTURERS AND PANEL MEMBERS	12
8. COURSE EVALUATION	13
9. OUTCOMES AND IMPACT OF THE COURSE	16
SUSTAINABILITY	16
COURSE OUTPUT	17
10. FINANCIAL SUPPORT	17
11. CHALLENGES	18
BASIC ORIENTATION	18
FINANCIAL STABILITY	18
LONG-TERM PERSPECTIVES	19
SELECTED PAPERS	20
META-HISTORICAL REFLEXIONS ON TRANSITIONAL JUSTICE & DEVELOPMENT: TOWARDS SOCIAL AND REDISTRIBUTIVE JUSTICE (TESSA BOEYKENS)	21
HUMAN RIGHTS FOR DEVELOPMENT – A WORKABLE CONCEPT OR A NOBLE MISSION THAT WILL REMAIN ABSTRACT? (FANNY FRÖHLICH)	28
THE EUROPEAN COMMISSION'S JOINT STAFF WORKING DOCUMENT ON THE FRAMEWORK ON SUPPORT TO TRANSITIONAL JUSTICE: A CRITIQUE FROM THE GLOBAL SOUTH (PHANUEL KAAPAMA)	40
LOCALISING WAR ORPHANS' RIGHT TO DEVELOPMENT IN THE GREAT LAKES REGION: PREPARING FUTURE SUSTAINABLE PEACE MAKERS OR SPOILERS? (JEAN-BERCHMANS NZEYIMANA)	48
ANY 'REAL' CONTRIBUTIONS BY AFRICA TO THE DEVELOPMENT OF THE RIGHT TO DEVELOPMENT? (ALBAB TESFAYE)	57
LINKING HUMAN RIGHTS AND RURAL DEVELOPMENT: PERSPECTIVES ON THE INTEGRATION OF RIGHTS-BASED APPROACHES IN THE WORK OF THE NGO <i>BROEDERLIJK DELEN</i> AND ITS COUNTRY PROGRAM IN HAITI. (PIETER THYS)	66
LINKING CONFLICT TO DEVELOPMENT: A CASE STUDY OF THE ROLE OF WOMEN IN NICARAGUA (ELLEN VAN DAMME)	77
THE RIGHT TO DEVELOPMENT AND INTERNATIONAL REFUGEE LAW (ANDREW WOLMAN)	82
ANNEX I: HR4DEV 2015 – SUMMARY PROGRAMME	86
ANNEX II: BIBLIOGRAPHIES OF PARTICIPANTS AND SPEAKERS	90

INTRODUCTION

This report provides a retrospective view on the International Training Programme *Human Rights for Development – HR4DEV*, held in Leuven, Belgium, from 16 August to 11 September 2015.

Part I provides general information about the course, the participants and the speakers, followed by the main results of the course's evaluation. It also highlights the course outcomes, impact, the financial situation and some future challenges for the course organisers.

Part II presents eight outstanding reflection papers written by participants. All participants submitted a paper in which they offered interesting insights into the ways in which a training programme like this can help change practices and approaches in the field of human rights, development and transitional justice. The selection of essays that we offer here can be read as a compilation of good practices from a diversity of geographical contexts.

A warm word of thanks goes to our sponsors for their invaluable financial support, to the advisory board for their expert advice and moral support, and to all guest lecturers and participants. In addition, our sincere thanks go to Sven Bollens and Anna Ko for their great help and assistance before and during the course. Also, we thank Fanny Fröhlich for her thoroughness, patience and motivation in taking responsibility for the evaluation procedures.

We wish you a pleasant reading and will keep you updated about next course editions!

The Organising Committee

Mr. Vincent Bellinkx

Dr. Giselle Corradi

Dr. Ellen Desmet

Ms. Sara Lembrechts

Prof. Stephan Parmentier

Prof. Wouter Vandenhoele

Ms. Lieselot Verdonck

Dr. Estelle Zinsstag

Pictures: Sofie Lembrechts & Rani De Coene ©

COURSE REPORT

1. About the course

The 2015 edition of the international training programme Human Rights for Development (HR4DEV) outlined the potential and limits of human rights in development and development cooperation, with a specific focus on transitional justice. Divided into two modules, the main themes included a contextualisation of human rights in the development debate, several paradigms of human rights and development, an overview of the origins and actual mechanisms of transitional justice, dominant and alternative approaches to transitional justice, and the multiple connections between transitional justice, human rights and development. The course targeted 'leaders of the future' in practice, policy and academia from the global South and North.

2. Background and course conveners

Since 2012, the international training programme *Human Rights for Development* (HR4DEV) consists of a general part on human rights and development, and a thematic part that is variable (2012, 2014 and 2016: children's rights; 2015: transitional justice).

Universities in Flanders possess a lot of expertise in human rights, development and transitional justice. Each year, a number of young researchers present themselves at the Flemish research networks for research on these topics. The creation in 2010 of a Flemish Interuniversity Research Network in the field of law and development (LAW&DEV), pooling all experts at Flemish universities in this field, offered new opportunities for cooperation. Through this interuniversity cooperation, it proved possible to combine the knowledge and expertise available in Flanders and its international networks for the joint training programme. As a result, HR4DEV has been organised as a joint initiative of the Flemish Interuniversity Research Network and Development (LAW&DEV), in cooperation with the Institute of Development Policy and Management (IOB, University of Antwerp).

The institutional members of the Flemish Interuniversity Research Network on Law and Development (LAW&DEV) are: the University of Antwerp (Prof. Dr. Koen De Feyter and Prof. Dr. Wouter Vandenhoele), the Free University of Brussels (Prof. Dr. Stefaan Smis and Mr. Eric Ebolo Elong), Ghent University (Prof. Dr. Eva Brems, Dr. Giselle Corradi and Dr. Ellen Desmet), Hasselt University (Prof. Dr. Johan Ackaert and Prof. Dr. Petra Foubert) and the University of Leuven (KU Leuven) (Prof. Dr. Koen Lemmens and Prof. Dr. Stephan Parmentier).

The members of the 2015 HR4DEV Executive Committee:

Mr. Vincent Bellinkx – University of Antwerp, Dr. Giselle Corradi – Ghent University, Dr. Ellen Desmet – University of Antwerp/Ghent University, Ms. Sara Lembrechts – Children's Rights Knowledge Centre (KeKi), Prof. Stephan Parmentier – KU Leuven, Prof. Wouter Vandenhoele –

University of Antwerp, Ms. Lieselot Verdonck – Ghent University and Dr. Estelle Zinsstag – KU Leuven.

The members of the Advisory Board:

Dr. Lieve Bradt – Ghent University, Prof. Eva Brems – Ghent University, Prof. Koen De Feyter – University of Antwerp, Prof. Els Dumortier – Free University Brussels, Mr. Eric Elong Ebolo – Free University Brussels, Prof. Koen Lemmens – KU Leuven, Prof. Stefaan Smis – Free University Brussels, Prof. Johan Put – KU Leuven, and Prof. Stef Vandeginste – Institute of Development Policy and Management.

The student assistants:

Sven Bollens & Anna Ko – KU Leuven.

3. Course objectives

HR4DEV 2015 aimed to promote knowledge, insight and skills in the field of human rights and transitional justice, as well as to develop young leaders in policy, practice and academia. More specifically, it intended:

- to enable the participants to transfer this knowledge and these skills to their own society and working environment (according to the train-the-trainers model), and
- to stimulate critical and strategic reflection on the integration of human rights, development and transitional justice in their professional activities.



HR4DEV was not exclusively organised for participants from the global South. The organisers have explicitly opted to expose participants from the North and the South to the views of participants from other continents. Information, knowledge and means that are relevant in both North and South were shared. The course organisers aimed to achieve an equitable geographical representation of participants from all continents (see also section 6 in this report).

Participants have been invited to join the HR4DEV alumni network to continue sharing their knowledge and expertise with other participants from all regions of the world across different editions of the course.

4. Themes

In recent decades, a human rights approach to development has become increasingly attractive to multilateral organisations (including UNDP, WHO, UNICEF, OECD-DAC, EU, etc.), as well as to bilateral donors and many non-governmental development organisations in the global North and South. A number of main themes dominate the debate, often with contradictory points of view:

- The universality vs. relativity of human rights, e.g. with regard to non-discrimination on the basis of sexual orientation
- Structural inequalities between the global North and South, and the human rights potential to realise global justice in light of the challenges presented by globalisation
- The practical operationalization and added value of human rights principles such as participation, accountability, non-discrimination and empowerment
- The objectives and effectiveness of a range of transitional justice mechanisms, such as criminal tribunals, truth commissions and victim reparation programmes
- The overall approach of human rights, development and transitional justice as being top-down vs. bottom-up.

HR4DEV has been conceptualised as a platform for critical and strategic reflection on the potential and limitations of a human rights-based approach to development. HR4DEV addressed the abovementioned key discussion themes vertically as well as transversally during both modules of the course.

Module 1

The first week offered the participants a crash course in both development studies and human rights (law), in order to level the playing field. Secondly, participants were introduced into the different ways in which development and human rights can be linked conceptually. The right to development and human rights-based approaches were singled out as the main approaches to be discussed. As much as possible, competing perspectives were offered on the matter by introducing proponents and opponents of a certain approach. Women's and children's rights were dealt with as cross-cutting issues. We drew strongly on the expertise available in Flanders, but also invited professor Amita Punj to offer a perspective from the global South, and Mr Konstantinos Tararas to give participants a more institutional perspective (i.e. UNESCO). In order to allow participants to fully digest all the input given, we ended the week with a flipped classroom: participants were given the floor, within formats offered by us, to reflect on insights gained and to discuss pending questions.

In the second week, the knowledge and insights gained in the first week were applied and deepened in relation to the specific topic of "Natural resources and actor-oriented approaches to human rights". Professor José Alwyn (Chile) gave a general introduction to the challenges relating to natural resource exploitation and the interplay with human and children's rights. In the following days, these challenges were further explored from both a top-down perspective (transnational actors such as companies) and a bottom-up perspective (legal pluralism and localising human

rights). On Thursday morning, prof. Olivier de Sardan looked into alternative approaches towards development, based on his extensive field experience in Niger. In a panel debate in the afternoon, participants were familiarized with the experiences and challenges of NGOs who work on natural resources in the Global South, and the role played by human rights therein. Finally, in various sessions spread over the whole week, participants engaged in a fictitious case-study on the relationship between a commercial fishing company and an indigenous community. This much appreciated role play culminated in a presentation of the outcome of the negotiations on Friday, followed by a debriefing and evaluation.

Module 2

A great diversity of topics was also discussed in the two weeks on transitional justice (TJ) and human rights. Participants were first introduced to the basic models and mechanisms of transitional justice, including criminal prosecutions, truth commissions, victim reparation programmes, institutional reforms and memorialization. Each of these components was further developed in subsequent presentations and workshops by speakers from Leuven, Flanders and abroad. Some speakers brought a theoretical perspective, while others emphasized a policy-oriented perspective or even relied on their personal practice. Particular attention was given to case-studies that embodied several TJ mechanisms, sometimes complementary and sometimes competing, including Rwanda, Afghanistan, Libya, and the Second World War. As several participants came from countries that had been engaged in violent conflict in the past (or even the present) they were strongly encouraged to share their personal experiences as well as draw on the debates in their countries. Use was made of various methods, including lecturing, video presentations and workshops.

The second week of the TJ module, and last week of the summer course, aimed at tying together the various concepts and frameworks developed during the preceding weeks. It started with a field visit to Brussels, which gave participants the opportunity to engage with representatives of the European External Action Service as well as NGO representatives with an important presence in Brussels. The thematic focus of both these sessions was mainly on TJ, but also included more general issues of human rights and development. The week also included tips and tricks to undertake field research in conflict or post-conflict situations. It ended with two events open to a wider public in Leuven and Flanders: first, a Public Symposium entitled 'Human Rights, Development and Transitional Justice: reaching back, looking forward', animated by a range of high-level experts and giving the participants an opportunity to discuss these topics with a wider circle of attendees; and finally, the closing session with a keynote lecture on economic, social and cultural rights within the framework of transitional justice and development.

More information on the course programme can be found in Annex I.

5. Working methods

General structure

In methodological terms, the emphasis was mainly on capacity building, knowledge acquisition and offering a platform for critical and strategic reflection. This was achieved by devoting explicit day themes to particular topics (e.g. human rights in context; new approaches to human rights and development; transitional justice, human rights and development), by means of the programme structure (confrontation of several disciplinary perspectives, approaches and schools), and through a diversity of working methods (working groups, open forums, paper, project work). The four week course offered considerable time to the participants to engage with each other in discussions, and integrate this critical and strategic reflection in their own thinking as well as in the individual paper.

Lectures and discussions

Introductory lectures on a wide range of topics and by a large group of experts from the global South and North were followed by question & answer sessions and time for discussion. Participants were encouraged to extensively engage in discussions with others and to share their reflections with lecturers and fellow participants.

Workshops

Workshops were conducted in small working groups. These interactive moments and exercises allowed participants to reflect on practical implications of the topic and critical issues discussed, and to confront their views with those of others.



Reading materials

A reader with all background materials to the lectures and workshops was made available on the website of HR4DEV via a personal log-in. The reader consisted of priority and non-priority materials, submitted by the experts responsible for each session. Participants were expected to read at least the priority reading materials before the start of the session, which allowed the lecturers to start from a level playing field.

Individual assignment

Participants had to submit an essay in which they were asked to critically reflect on their own

understanding of human rights in development (cooperation), and on opportunities and challenges for adopting a human rights-based approach to their work. In particular, they were asked to clarify how they would integrate what they had learned in the course in their own society, field of action and professional activities. Throughout the course, the organisers provided guidance and feedback. To share the insights and reflections of the participants, a selection of seven essays, representative of the different expectations, perspectives, intentions and professional areas, has been included in Part II of this report.

Project work (only during Module 1)

The project consisted of an extensive case study on natural resource exploitation and human rights, from an actor-oriented perspective. In brief, an indigenous community was confronted with an economic development plan for the exploitation of fishery resources and the construction of a harbor, a factory and roads. These economic activities would possibly affect the culture and natural environment of the community, but they would benefit from social programs in return. Each participant was assigned a specific character and role, and they had to interact and negotiate with other actors. In particular, there were six different categories of actors: government representatives, community members, civil society actors, World Bank officials, company representatives and anthropologists. Throughout the second week of the course, the case was built up in different stages, adding additional layers of complexity in the consultation process. At the end, the different aspects and contributions were brought together in a comprehensive debate.

Symposium (only during Module 2)

On Thursday, September 10th, a one-day symposium was held, in order to bring together the various aspects of Transitional Justice, Human Rights and Development discussed in the course of the previous weeks. Several keynote speakers presented their viewpoints on how to link the three main concepts of the course, followed by a roundtable discussion with policy-makers, media representatives and non-governmental organisations. All course participants were encouraged to formulate critical questions for the speakers and panel members. This symposium was public to also attract external participants from the fields of transitional justice, human rights, and development, coming from Belgium and abroad. Nearly 50 people attended the symposium.

Panel discussions and round tables

Panel discussions and round tables with a range of experts from academia, policy and practice were included in the programme to stimulate discussion and interaction. This allowed for an interesting exchange not only amongst the invited experts, but also between the panels and participants. As such, stimulating dynamics and critical views came to life during these panel discussions and roundtables.

Open forum and ‘Flipping the Classroom’

In the ‘open forum’ and ‘flipping the classroom’ sessions, participants were invited to organise discussions on a topic of their choice, and/or to present good practices from their own professional environment to the group. During the open forum, participants talked about the role of international development agencies and their detachment from reality, about natural resource

exploitation in Tanzania, about indigenous tribes in Namibia, about the right to freedom of opinion and the right to protest in the current political reality of Brazil, and about human rights mechanisms in ASEAN. The discussion tables during the ‘flipping the classroom’ session focused on a series of questions that participants discussed in small groups:

1. Is the adaptability of human rights a positive or a negative characteristic? In which aspects of development could it be positive or negative? What is the role of culture in this adaptation of human rights?
2. Is there a hierarchy or prioritization of human rights (CPR – ESCR) in the area of development? Is there a hierarchy within the Right to Development (RtD)?
3. Is there space in the RtD concept to address migration and global environmental challenges as global solidarity challenges (cfr. redistribution developed – developing states)?
4. Is a children’s rights-based approach any different from a human rights-based approach, except for the fact that the principle of normativity is limited to children’s rights?
5. The usefulness and functionality of a human rights based approach to development: Is it a weakness or a strength that a human rights-based approach offers no straightforward answers to fundamental development dilemma’s?
6. What do we seek to achieve by linking human rights and development: structural change at the global level, structural change within the state? Are both connected?

6. Information about participants

HR4DEV reached out to professionals from NGOs, national human rights organisations, the government, international organisations, academics and (doctoral) students, as well as grassroots workers and policy makers. About 300 candidates applied for the course. After careful selection, 33 highly qualified participants from diverse cultures, disciplines and professional backgrounds were eventually admitted. In addition to qualifications, professional experience and motivation, selection criteria also included an equitable balance in gender, nationality and country of origin / residence. A total of 21 participants followed the entire course, 9 participated only in Module 1 (Human Rights and Development), and 3 in Module 2 (Transitional Justice).

Gender and regional distribution

Out of a total of 33, there were 19 female and 14 male participants (*Figure 1*). Four geographical regions were represented: 15 participants originated from the African continent, 10 from Asia, 5 from Europe (of which 3 from Belgium) and 2 from the Americas. Two participants from Africa are currently residing in Belgium (*Figure 2*). The number of nationalities represented was 22 (*Figure 3*).

Figure 1. Gender distribution (total: 33)

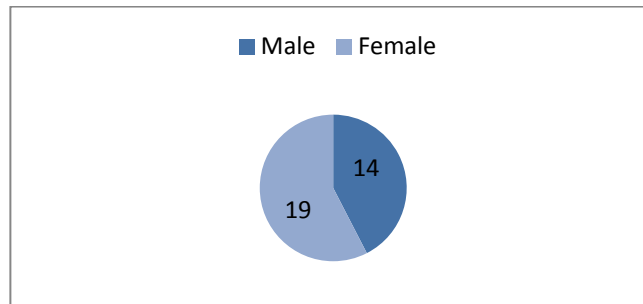


Figure 2. Region of origin and residence (total: 33)

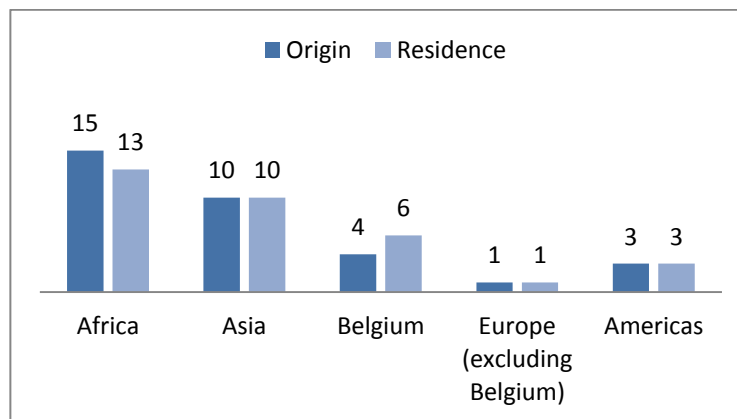
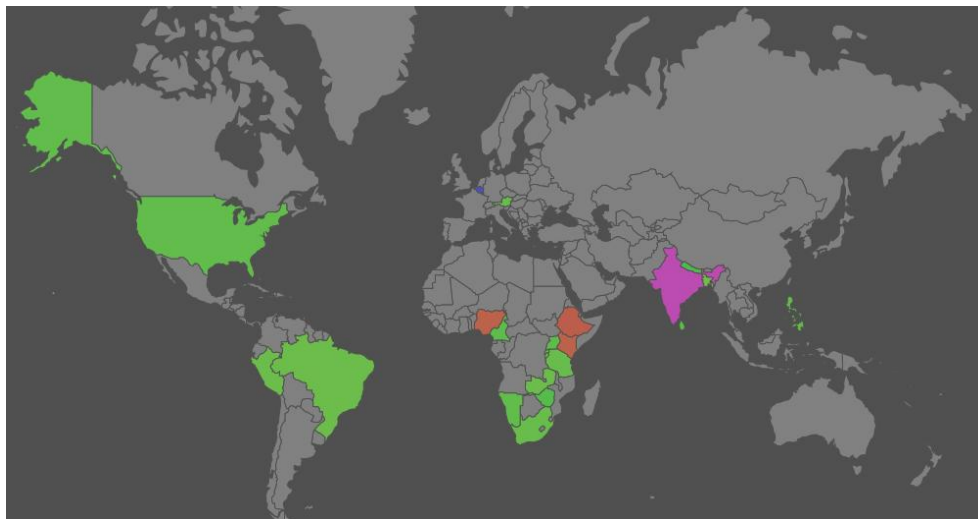


Figure 3. Nationalities represented (total: 22)

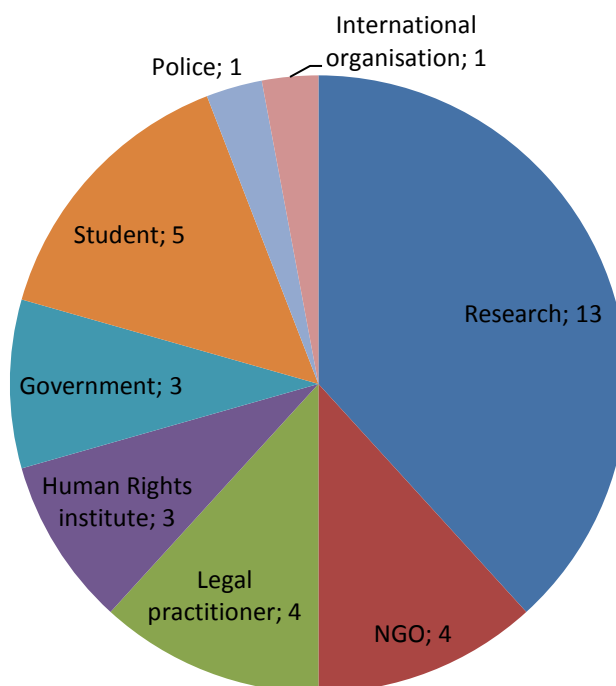


- Green: 1 participant
- Red: 2 participants
- Blue: 4 participants
- Pink: 6 participants

Professional background

Participants came from a wide variety of sectors (*Figure 4*). On a total of 33 participants, the largest group is active in research (13), of whom 11 are PhD students and 2 are academic staff. Another 4 participants work in the non-profit sector, 4 more as legal practitioners, 3 for a human rights institute and 3 for a national government. 1 person works for the police and 1 in an international organisation. Another 5 participants are students.

Figure 4. Professional background (total: 34)



Educational background

The educational background of participants is equally diverse and is represented in *Figure 5*. The total number is 38, as 5 participants had a background in more than one discipline. The largest share of the participants has a legal background (18); of which 7 specialised in human rights law and 2 in law & development. The second and third largest group consists of graduates in development studies (6) and students in rural management (4). In addition, 2 people had a background in history. The disciplines of anthropology, criminology, gender studies, international studies, journalism, linguistics, public health and social work were each represented by 1 participant (in *Figure 5* under “Other”).

Figure 5. Educational background (total: 38)



7. Profile of lecturers and panel members

In bringing in 38 experts to lecture in the HR4DEV International Training Programme, the organisers focused on quality and diversity. The lecturers were a multidisciplinary group, including academics in anthropology, criminology, development studies, economics, educational sciences, history, human rights, international politics, law, psychology and transitional justice. In addition, highly experienced practitioners from national and international NGOs, advocacy groups, international organisations and institutions (including the International Criminal Tribunal for Rwanda, the International Centre for Transitional Justice, Human Rights Watch and UNESCO) were invited to share their expert knowledge.

A slight majority of the lecturers are professionally active in Belgium (20 out of a total of 38: M. Aciru, B. Bevernage, E. Brems, V. Busck-Nielsen, G. Corradi, K. De Feyter, I. Derluyn, E. Desmet, P. Gossman, B. Ingelaere, K. Lemmens, S. Parmentier, H. Saeed, M. Schotsmans, L. Smets, S. Smis, S. Vandeginste, W. Vandenhoe, L. Verdonck & E. Zinsstag). This high number bears testimony to the expertise that is currently available in Belgium on human rights, development and transitional justice. Other lecturers work in and/or came from Chile (J. Aylwin), Greece (K. Tararas), India (A. Punj), Ireland (C. O'Rourke), Italy (P. Sullo), Morocco (M. Ayat), the Netherlands (N. Huls & R. Letschert), Niger/France (J-P. Olivier de Sardan), Rwanda (A. Muleefu), Sudan (J. Nyawo), Spain (A. Vandenbogaerde), Switzerland (M. Rauschenbach & E. Schmid), Uganda (B. Alipanga), the United

Kingdom (C.L. Sriram) and the United States of America (R. Carranza & T. Destrooper). There were 18 female and 20 male lecturers.

8. Course evaluation

An extensive evaluation procedure has been set up in order to closely monitor the participants' assessment of the HR4Dev summer course. This has been done in two ways: through online evaluation forms (assessing separately Module 1, Module 2 and General Matters for both Module 1 and 2) and through a collective feedback session on the last day of Module 1 and on the last day of the entire course. Participants were invited to actively take part in all processes. Given the fairly high participation rate (66,7% –73,3%) in the online evaluation surveys and a rather animated feedback session with various inputs from many participants, the results of the evaluation show how participants assess the course and offer guidance for future editions.

Evaluation on a daily basis

At the start of each module, participants received an individualised link to an on-line evaluation survey via LimeService. This link allowed for each participant to give their feedback in an anonymous way. Each day, they were asked to evaluate the speakers and lectures, workshops, etc. Also, the Project Work and the Excursion to Brussels were evaluated. Participants were invited to assess the content, quality and clarity of the lectures, as well as the quality of the complementary lecture materials in the course reader. In addition, the participants were asked to indicate whether there had been sufficient time for discussion. Also there was room provided to the participants to make any additional comments, both practical and content-based. All questions were asked positively. Participants graded the different categories on a scale of six options – ranging from very negative (“I fully disagree”) to very positive (“I fully agree”). Individualised feedback on their respective contribution has been provided to the lecturers and workshops facilitators. The general results are summarised below.

Results – Evaluation of Module 1 (Human Rights for Development)

In total, the response rate was 73,3%) for Module 1. The lectures and workshops covered a wide range of subjects, including the universality of human rights, development (cooperation), human rights-based approaches, the right to development, legal pluralism, resource exploitation and transnational human rights obligations.



Overall, participants were positive to very positive in their evaluation of the lectures. The following lectures and themes were particularly appreciated: “The Right to Development: concept, context and current debate” (A. Punj), “Children’s Rights Approach to Development” (W. Vandenhoe) and the sessions dedicated to

Project Work. The sessions on natural resource exploitation (by J. Alwyn) also received very positive feedback as well as the screening of the documentary “Law of the Jungle”. “Transnational Human Rights Obligations” (W. Vandenhoele) as well as “Corporations’ accountability” (L. Verdonck) were further themes that were highly valued. The Flipping the Classroom exercise was positively evaluated although the evaluation shows that the organisation of this exercise could be improved (please see comments below on open forum). Words of both appraisal as well as constructive criticism were provided in the following statement by a participant:

“The course was very interesting and offered a great number of insights and viewpoints on human rights and development. However, I also think the course could perhaps tackle some of the more complex realities. For instance, how to deal with the realities of conflict and violence from a human rights perspective? What happens if actors do not engage in dialogue or litigation? What if the human rights framework breaks down and does not offer any redress to victims?”

On natural resources and actor-oriented approaches to Human Rights, one participant stated:

„The [lectures] on natural resources [were] very central to all the other thematic areas of the summer course: human rights, development, violent conflict and transitional justice. I would have appreciated a more forceful problematizing of the various notions of property rights and how they promote and/or [hinder] human rights promotion, development, conflict and transitional justice.“

Results – Evaluation of Module 2 (Transitional Justice)

The response rate for Module 2 was 66,7%.

In a similar fashion to Module 1 participants were positive to very positive about the lectures. The following lectures scored exceptionally high: the closing keynote lecture on socio-economic rights and transitional justice (E. Schmid), “Socio-economic crimes in Afghanistan through the lens of transitional justice and development” (H. Saeed) as well as the introductory lecture on “Transitional Justice: origins and models” (S. Parmentier). The Public Symposium was evaluated highly positively as well. Overall, the Field Visit to Brussels was appreciated by the participants – there could have been more space for discussion and interaction though.

Results – Overall course and organisation

The participants’ general appreciation of the course was assessed in a separate survey. This survey contained questions targeted at overall course organisation, course content and format, the assignments as well as the evaluation process itself. A total of 23 out of 33 participants (69,7%) completed this survey. More than 95 % assessed the overall organisation of the course as “good” or “excellent”; the evaluation process was also appreciated with over 95 % agreeing or fully agreeing with the following statement “The questions on the evaluation survey allowed me to reflect on my experience with the HR4DEV training programme“. An overwhelming majority agreed or fully agreed that their knowledge and awareness, as well as their critical engagement was raised in

regard to Human Rights and Development. An overwhelming majority (more than 91 %) would recommend the module on Transitional Justice to their colleagues. Most participants found the paper to be a relevant exercise; some participants thought that they did not have sufficient time to prepare their paper though, and that they were lacking opportunities to select relevant background material.

Here are the voices of some participants regarding the overall assessment of the course:

„Well done to all!“

„In general the course has been enjoyable but it was too busy and congested“

„Great course!“

„Excellent program. Participants activity can be increased more through initiative like project work.“

„The programme is really of magnificent value to the participants who all have track records to become future leaders.“

Some participants would have liked the focus and intensity of Module 1 to be applied to Module 2 too.



Final evaluation and recommendations

Final evaluation sessions were held both at the end of Module 1 (August 28) and at the end of the overall course (September 11). Each time, 90 min were dedicated to ensure that participants could share their views on the course. These sessions were facilitated by moderators; they managed to create a friendly and trustworthy atmosphere so that many people contributed with inputs – both of a positive and of a more critical nature.

Here are the findings from the evaluation session after Module 1. Participants were highly positive about the **project work**, as it was an interactive way of implementing and testing in a practical context the theoretical knowledge acquired. It was pointed out though, that less time could have been spent on the project work overall as it did take away time to engage with other topics and themes. The latter point was especially made by participants who participated only in Module 1 (as opposed to participants who participated in the entire course).

Regarding **reading material**, participants felt that especially in the second week (when the paper was due for some participants), it was hard to read all the materials. It was suggested to provide either shorter or less articles.

Regarding the **open forum/Flipping the Classroom**, some participants suggested to spend more time on that, at least 1 day. This would give more space to share experiences. Thinking about alternative ways how to present the participants' work, it was suggested that every morning (for the first two weeks of the summer school) 2-3 persons could be given a 30 min time slot to present their work. This would have the potential to encourage more targeted dialogue and interaction between participants especially on aspects not covered in those short presentations.

The **rich and diverse composition of participants** was mentioned as a very positive aspect of the summer school enabling. The diversity of the group enabled participants to compare situations in different countries and to learn not only from lecturers but also from each other. As one participant said: "There was so much experience and practical knowledge among the participants. I found it to be such a different and wonderful exposure."

The findings of the evaluation session at the very end of the course entail the following: many participants agreed that the **Transitional Justice module** was build up well as lecturers linked back or referred to presentations and themes covered by other lecturers. Some participants pointed out that there could be more reflection on practical challenges and more discussions about case studies. Furthermore, a topic that was missing in the summer school was the role of the media. It was suggested that a roundtable of participants could be held (similar to the roundtable model used at the public symposium).

Overall, participants found that there was a good mixture of disciplines (law, sociology of law, anthropology, etc.). Participants also showed positive reactions to the idea of an alumni network (currently aimed at children's rights) extended to include TJ. The opportunity of such a network could be for members to post something that comes out of their work. Interactivity was perceived to be an important factor of such a network.

9. Outcomes and impact of the course

Concrete course outcomes and impacts are difficult to assess. However, the experience from several course editions, as well as the positive results from the evaluation process, allow the following conclusions to be made.

Sustainability

In addition to what participants have personally learned and acquired in terms of knowledge, expertise and critical approaches, the course makes a major contribution to the establishment and elaboration of a network of professionals. As a follow-up to the course, there will be an on-going

sharing of information and cooperation between the different participants and their respective institutions. In addition, numerous participants showed an interest in expanding their research and teaching in the area of human rights, development and transitional justice. Regional thematic training initiatives may be taken in the near future, thereby triggering the “multiplier effect” HR4DEV envisages. Participants can accommodate the need for training to grassroots workers at a more practical level, as well as the need to fully take account of cultural diversity and local specificity when offering training programmes.

In order to ensure a sustainable follow-up, the course organizers are willing to facilitate such initiatives by:

- Sharing their organisational and managerial expertise (i.e. course budgeting, course format etc.);¹
- Sharing their materials (reader, background documents etc.);
- Making their substantive expertise available to the extent possible (i.e. teaching at these training programmes);
- Sharing their network of experts/presenters;
- Setting up an alumni network and newsletter;
- Act as a referee or provide recommendation letters;
- Actively supporting local organizers in fundraising.

Course output

In their individual assignment, participants explained what they experienced as the impact of the course on their professional work. A selection of these papers is presented in Part II of this comprehensive report. The report is made available on the website of the course, www.hr4dev.be.

A manual on HRBA, focusing in particular on the UNESCO domains of interest, prepared as a joint venture of the course organizers and UNESCO, was used during this edition of HR4DEV. The manual will be finalized and complemented with UNESCO-specific examples.

Finally, the Alumni Network and Facebook/LinkedIn groups provide opportunities for future communication, friendship and involvement with course participants of different editions from all over the world.

10. Financial support

The international appreciation of Flemish expertise on human rights, development and transitional justice is reflected in the structural financial support of the HR4DEV-programme by the Flemish Interuniversity Council – University Development Cooperation (VLIR-UOS). VLIR-UOS funding made

¹ Part of this has already been achieved in the course session on “How to set up a training programme”, offered by the organizers.

it possible to invite 14 experts from inter alia France, India, Morocco, Niger, Peru, Rwanda, Uganda, the United Kingdom, the USA, Sudan and Switzerland; and 16 participants from Bangladesh, Burundi, Cameroon, Ethiopia, India, Kenya, Nepal, Nigeria, Peru, Philippines, Rwanda, Sri Lanka, Tanzania, Uganda, Zambia and Zimbabwe. Another 8 participants were self-funded (5 for the entire course and 3 for module 1).

Additionally, the course benefited from scholarships from the Doctoral Schools of Antwerp, Ghent and Leuven, allowing 6 more participants to join the programme. Some of them also presented their research in a workshop session.

The Antwerp-based University Foundation for Development Cooperation (USOS) provided scholarships to two participants from the Xavier Institute of Social Service (India) and one participants from National Law University Delhi (India) for Module 1. USOS organised a 5-days follow-up programme in Antwerp for these participants and three more self-funded colleagues from India.

Finally, the Children's Rights Knowledge Centre, Ghent University, University College Ghent, the University of Antwerp, the Free University Brussels and the University of Leuven contributed in kind. KU Leuven, this year's local organiser, equally contributed considerably in kind by making their staff, premises and logistic support available.

11. Challenges

Notwithstanding its overall success, the HR4DEV International Training Programme is faced with some recurrent challenges.

Basic orientation

As regards the basic orientation of the course, at times a tension arises between the critical perspective advanced by the course conveners, and the more practical questions of implementation (and beyond) put forward by some participants. Even though initiatives such as the open forum seek to reduce this tension, it seems to remain inherent to the advanced level of the course. This leaves future editions with the challenge to balance profound theoretical perspectives by experts with an inductive approach and sharing by participants.

Financial stability

To guarantee that the course can be organized on a regular basis, more structural funding has been secured for the 2012-2016 period. The organizers seek to strike the right balance between maintaining the registration fee at a reasonable level as to not unduly limit the accessibility of the course on the one hand, and financial sustainability on the other.

Long-term perspectives

In the longer run, a four-week summer course may not be tenable for financial and organisational reasons. This year, a unique opportunity has arisen to 'upgrade' the human rights for development module into a full semester module as part of the regular master in laws programme at the University of Antwerp. This upgrade reflects the acknowledgement within the Antwerp Faculty of Law of the quality of the programme, as well as its commitment to teaching dedicated to human rights and development. The incorporation into the regular teaching will also ensure the sustainability of the course in the long run. At the same time, we have built a very strong reputation in the area of children's rights courses (with editions in Ghent since 1996, and jointly with other Flemish universities since 2008), and we continue to be approached with requests for an intensive, two-week course. In the professional field of children's rights, courses that last for more than two weeks seem to be less attractive though. In 2016, we will therefore organize a two-week intensive course on mainstreaming a human rights-based approach into the implementation of the rights of the child. In this course, the general input on human rights for development will be integrated in a thematic children's rights course, so that the substance and the methodology remain the same, only the course duration is reduced.



SELECTED PAPERS

META-HISTORICAL REFLECTIONS ON TRANSITIONAL JUSTICE AND DEVELOPMENT: TOWARDS SOCIAL AND REDISTRIBUTIVE JUSTICE (TESSA BOEYKENS)	21
HUMAN RIGHTS FOR DEVELOPMENT – A WORKABLE CONCEPT OR A NOBLE MISSION THAT WILL REMAIN ABSTRACT? (FANNY FRÖHLICH)	28
THE EUROPEAN COMMISSION’S JOINT STAFF WORKING DOCUMENT ON THE FRAMEWORK ON SUPPORT TO TRANSITIONAL JUSTICE: A CRITIQUE FROM THE GLOBAL SOUTH (PHANUEL KAAPAMA)	40
LOCALISING WAR ORPHANS’ RIGHT TO DEVELOPMENT IN THE GREAT LAKES REGION: PREPARING FUTURE SUSTAINABLE PEACE MAKERS OR SPOILERS? (JEAN-BERCHMANS NZEYIMANA)	48
ANY ‘REAL’ CONTRIBUTIONS BY AFRICA TO THE DEVELOPMENT OF THE RIGHT TO DEVELOPMENT? (ALBAB TESFAYE)	57
LINKING HUMAN RIGHTS AND RURAL DEVELOPMENT: PERSPECTIVES ON THE INTEGRATION OF RIGHTS-BASED APPROACHES IN THE WORK OF THE NGO <i>BROEDERLIJK DELEN</i> AND ITS COUNTRY PROGRAM IN HAITI. (PIETER THYS)	66
LINKING CONFLICT TO DEVELOPMENT: A CASE STUDY OF THE ROLE OF WOMEN IN NICARAGUA (ELLEN VAN DAMME)	77
THE RIGHT TO DEVELOPMENT AND INTERNATIONAL REFUGEE LAW (ANDREW WOLMAN)	82

Meta-historical reflexions on Transitional Justice & Development: towards social and redistributive justice

Tessa Boeykens

Countries across the world face the problem of reconstruction after war and violent conflict. Dealing with a violent past is one of the bigger political issues of our time, and a wide range of strategies or 'transitional justice mechanisms' are being developed to deal with historical injustice and conflict. Between 1960 and 1996, Guatemala was shattered by an internal armed conflict characterized by state repression against citizens in response to the armed resistance of leftist social movements and guerrilla groups. UN facilitated peace agreements between the government and the Revolutionary National Unity of Guatemala (URNG) finally ended thirty-six years of violence. As part of these agreements a Commission for Historical Clarification (CEH) was established, counting a total number of people killed over 200,000; 83% of the victims being Mayan and 93% of the documented violations carried out by state forces and related paramilitary groups. Only 3% of the abuses was attributed to insurgent actions. Moreover, the report concluded "*agents of the state committed acts of genocide against groups of Mayan people*" (Comisión de Esclarecimiento Histórico - CEH, 1999).

My research is based on an extensive case study of 'post-conflict' Guatemala and situates itself in the fields of transitional justice (TJ), memory studies and meta-history. I aim at testing a meta-historical conceptual framework empirically through ethnographic fieldwork, exploring the role of memory and the uses of historical discourse in 'transitional' contexts. More specifically, I analyse local ways of dealing with the past in the Cobán region in relation to national memory practices and discourses. Operationally, two intertwined lines of investigation explore the production and mobilization of narratives and historical discourses by different social movements. Firstly, I focus on reburial ceremonies of victims of forced disappearance within the frameworks of the *National Reparations Program* (PNR) and exhumations carried out by the *Guatemalan Forensic Anthropology Foundation* (FAFG) in the former military zone nr. 21 in Cobán (CREOMPAZ). Next to participant observation during these memory practices, I also conduct semi-structured interviews with victim-survivors from affected communities. Secondly, I study memory politics in Copal AA La Esperanza, a community of returnees founded in 1995. During the conflict, they fled to Mexico and only returned to Guatemala after 11 years. Today, the people from Copal AA actively resist the construction of a hydroelectric dam on their territory. In the name of 'progress' and 'development' new human rights violations are afoot and past, present and future get highly intertwined. Inspired by visual anthropology, I conduct participatory action research through a grassroots documentary project about Copal AA's historical memory.

The aim of this paper is to reflect upon the second module of the HR4DEV course on TJ in relation to my own research. As such, this is not an academic paper but a reflexive text that needs to be elaborated further and confronted with more literature and empirical data from my fieldwork in Guatemala. The developing field of TJ places academic historiography in a challenging position and puts its social relevance under scrutiny. With this design paper I want to reflect upon possible contributions of historians in this multidisciplinary field. First, I briefly introduce the fields of TJ, memory studies and meta-history. Secondly, I suggest how truth commissions could benefit from a meta-historical perspective. Subsequently, I expand the possible role of historians through the idea

of memory-politics and narrative inequality. I also bring in a historical time perspective to denounce the predominant exclusion of historical and on-going structural injustices in TJ. To conclude, a plea in favour of the inclusion of social, economical and cultural rights (SECR) allows me to connect TJ and development through the concepts of social and redistributive justice.

1. Transitional justice, memory studies and meta-history

Transitional justice (TJ) refers to the set of measures that can be implemented in order to redress the legacies of past human rights abuses. The last decade, a lot of scholars have reflected on the evolution of this interdisciplinary field, how it works and what intellectual transfers and political effects it generates (Barahona De Brito 2001, Elster 2004, Roht-Arriaza 2006, Teitel 2014). One of the big challenges TJ faces today is cultural and local diversity. Despite an on-going shift to 'the local', the 'universality-diversity' debate is still a hot issue in the field (Brems 2001). Due to the growing globalization of TJ discourse, mechanisms sometimes fail to address the complexities of what is happening on the ground. Kimberley Theidon points out that TJ should not be the monopoly of international tribunals or of states; communities also mobilize the ritual and symbolic elements in dealing with the deep cleavages left by civil conflicts (Theidon 2006). Even though the situation is gradually changing, a considerable number of scholars agree that TJ is still predominantly legalistic, general and top-down (Orentlicher 2007).

Moreover, a sub-field of critical transitional justice studies emerged, considering the rise of TJ a worrisome global project steeped in Western (neo-)liberalism (Nagy 2008, Hoogenboom 2014). As such, some critical scholars denounce TJ as an elite discourse, offering technocratic solutions for political problems (Robins 2012). It is claimed that the field is in 'crisis' because of its limited transformative potential and *"the dominance of particular epistemic and theoretical approaches (Western, liberal, and human rights oriented)"* (Zolkos 2015). What is still missing however, is critical research that questions presumptions about TJ and historical consciousness, such as the idea that time heals all wounds or that memory can produce closure. This brings me to the field of memory studies and the potential role of historians in 'transitional' contexts.

The field of memory studies explores the various ways in which the past shapes the present and is shaped by present perceptions. Memory scholars focus on issues such as historical representation, narratives, oral history and the politics of identity (Kansteiner 2002, Silverman 2013). The interrelated field of meta-history goes 'beyond history' and theorizes the nature of history and historical time. Meta-historians do not investigate the past as such but the way it is being constructed (Lorenz 2008). Jörn Rüsen for example, concludes that modern Western historical thought views history as a linear progression implying that the past is absent or distant (Rüsen 2002). Because it offers a critical alternative to this dominant way of thinking, the emergence of the 'presence-paradigm' in recent meta-historical publications is very interesting (Runia 2006). The idea of presence implies that the delineation between past and present is no longer absolute and that the past sometimes persists in the present. Together with the rise of concepts such as 'the haunting past' (Rousso 2002), 'historical wounds' (Chakrabarty 2007) and 'distance' (Phillips 2011), this can be seen as an expression of a recent academic tendency towards a more profound reflection on our relationship with the past.

I argue that the field of TJ could benefit from insights from the fields of memory studies and meta-history. Based on previous fieldwork, I state that the encounter between macro level (inter)national TJ initiatives and micro level (non-western) cultural and local frameworks, is often accompanied by

frictions. The presence of the past and on-going structural and historical injustice indicated by many survivors seems to collide with the intention of many TJ mechanisms to actively create closure as a precondition for the transition towards democracy. Although TJ is all about ‘dealing with the past’, it is disturbing how few historians engage in this ‘multidisciplinary’ field that in reality is overjudicialized (Nagy 2008).

2. A meta-historical perspective on truth commissions

Truth commissions (TCs) for instance, could benefit a lot from a meta-historical perspective. During the HR4DEV course, I learned that initiators of TCs often assume that speech is healing and strive for a ‘cathartic moment’ (Shaw 2005). However, speech is very narrowly defined in this mechanism. Survivors are expected to give a linear and coherent narrative that is limited in its ability to capture certain traumatic experiences. Also, TCs tend to focus on the ‘bigger’ cases with a maximum of suffering. However, not all victims can identify with this narrative that rarely acknowledges daily forms of violence (Wilson 2001). Moreover, TCs tend to use a very reductionist language that freezes a person in time, splitting the ‘before’ and the ‘after’. They often declare something to be in the past and try to create “*historical distance*” (Phillips 2013). This does not always coincide with the feeling many survivors have of being haunted by certain events or even of being stuck in the past (Bevernage 2011). Therefore, when it comes to ‘healing’ I think we should equally promote bottom-up memorialization initiatives that create their own (counter-)narratives and culturally sensitive processes of giving meaning to a painful past.

Also, some scholars argue that TCs are about “*sanctioned fact-finding*” (Hayner 2011), which in my opinion is rather past-oriented. I therefore state that a TC is only a limited incentive towards social change and has little potential of being a TJ mechanism of non-recurrence. I think it is often equally or even more important to understand how survivors deal with the legacies of violent conflict, rather than trying to reconstruct ‘what really happened’ from a positivist perspective. I agree that one of the important tasks of a TC is to establish a record of patterns of violence. Nevertheless, I wonder if TCs could not also transcend factual truth including a focus on narrative and social truth. Would it not be desirable to similarly understand how the past is perceived today and how this affects community-life and future-building initiatives?

Apart from that and from a faith-based perspective on TJ, TCs are believed to empower survivors. In reality, we see that this mechanism can also be (re-)victimizing or (re-)traumatizing (Hayner 2011). A narrative of suffering is being constructed where survivors generally are not being given a lot of agency. For example, people are not asked to tell about their (successful) experiences of resistance or how they kept their local culture alive in difficult circumstances. In general, a TC’s narrative does not highlight what ‘good’ came from the conflict. For example, it tends to ignore emancipatory processes that took place when communities had to reorganize themselves and new forms of solidarity emerged that are still present in the community. As such, I suggest that TCs often miss the opportunity to be an empowering mechanism that allows survivors to (re)imagine their future.

3. Memory politics, narrative inequality and historical time

But the possible role for meta-historians in TJ reaches a lot further than offering critical perspectives on TCs. After having focused on the classical ‘four pillars of TJ’ (criminal prosecutions, truth commissions, reparations for victims and institutional reforms) the HR4DEV course also concentrated on ‘other mechanisms and approaches’. During a roundtable discussion about

‘memory and memorialization’ Bert Ingelaere stated that in the aftermath of conflict, another battle starts: “*the meta-conflict*” or the conflict about the conflict. The main issue at stake here, how to deal with the past, is the core business of TJ (Ingelaere 2011). During the same discussion, Berber Bevernage observed a recent tendency towards shared narratives and historical dialogue as a way to reconcile war-torn societies on the basis of mutual understanding and respect. According to Bevernage, the focus is no longer on ‘objective truth finding’ but has shifted towards ‘subjective multi-perspectivity’. He thereby referred to the publication in 2014 of a report on the writing and teaching of history in divided societies by Farida Shaheed, UN Special Rapporteur in the field of cultural rights. It is increasingly argued that people not only have ‘the right to know’ or ‘the right to the truth’, but also ‘the right to history’. It is said, the right to their own perspective and history.

One could argue that a possible role for meta-historians in TJ resides in the elaboration of the ‘fifth pillar’ of memorialization, representing different existing narratives as a way to acknowledge ‘the right to history’ and multi-perspectivity. I argue that representing ‘memory-diversity’ can definitely be applauded, for example from the perspective of localizing TJ (Shaw 2010) and the need for more cultural sensitivity of TJ practices (Viaene 2011). However, I think that meta-historians have the ethical and moral imperative to move beyond that. I argue that they can also analyse the unequal power relations and memory politics behind this diversity and denounce what Jan Blommaert calls “*narrative inequality*” (Blommaert et al. 2006). He argues that not all actors in the so-called ‘meta-conflict’ have the same capacities and/or opportunities to produce and disseminate their narratives. Considering the performative power of narratives, meta-historians can therefore study to what extent this inequality generates real social and political effects, ultimately reproducing power structures (cfr. *performative studies*). As such, denouncing narrative inequality can be understood as a potential mechanism of non-recurrence but also as a form of justice. The contribution of meta-historians to the field therefore does not only relate to the fifth pillar of memorialisation, but cuts through all of them since narrative inequality and the politics of memory are as present in criminal justice as they are in truth seeking, in reparations and even in institutional reform (cfr. archives and education). Also, apart from unequal power balances in the production and dissemination of narratives, the idea of reconciliation through multi-perspectivity holds the risk of depoliticizing TJ. Taking the Israel-Palestine conflict as an example, I argue that not every narrative has equal legitimacy. Historians can raise the alarm when relativism comes in the name of reconciliation ruling out justice.

It is interesting to bring in a historical time perspective to the idea of memory politics to denounce the predominant exclusion of historical and on-going structural injustices in TJ. TJ mechanisms tend to focus on direct injustices like gross human rights violations, war crimes and crimes against humanity (Mani 2002). Also, many scholars and practitioners define TJ mechanisms as being concerned with past events, not present ones (Hayner 2011). I argue that this is a very narrow conception of what human rights violations should include. Also, defining what is past and what is present is almost never neutral but rather an ethical and political enterprise and a form of social action (Lorenz & Bevernage 2013). The concept of ‘transition’ is therefore highly problematic, as it assumes a delineated and linear transformation from conflict towards a preconceived and end-point, often imagined as liberal democracy in TJ discourses (Hoogenboom 2014). Instead, I prefer considering TJ as an open-ended process. As such, it becomes less normative and more sensitive to bottom-up approaches and participative mechanisms. As a result of the practice of delineating specific ‘past’ events, historical injustices are generally considered ‘specific situations’ that are not automatically included in most TJ mandates or frameworks. How far does TJ have to go back in time? How about historical injustice committed before the human rights framework was

developed? Should we bring in slavery and colonial rule? It might be difficult to bring in these matters in a legal way, but morally speaking this should not be difficult - even though legal and moral issues are highly intertwined. From a meta-historical perspective however, I claim that historical injustice should be part of the TJ framework because it generates on-going, structural suffering. During the HR4DEV course we had an interesting meeting with Emma Hickey, Human Rights Policy Officer at the European External Action Service, who presented a draft of the EU's Policy Framework on support to TJ. The framework did not include historical injustice, which can be seen as an example of time politics by former colonial powers. Even though this is understandable in some way – nobody wants to open Pandora's box resulting in a never-ending stream of historical justice claims – it is morally unacceptable.

4. Transitional justice and development: towards social and redistributive justice

During one of the closing sessions of the HR4DEV course, Stef Vandeginste was challenged to look for possible links between TJ and development. He demonstrated that civil and political uprisings only take the tip of the iceberg when we look at conflict and violence worldwide. The greater part of conflict is socio-economically and culturally rooted. Still, TJ mechanisms mainly focus on civil and political rights. The inclusion of social, economical and cultural rights (SECR), highly related to historical and on-going structural injustice, is therefore one of the main challenges TJ faces today (Mani 2002, De Greiff & Duthie 2009, Schmid 2015). I argue that the field cannot be limited to scratching the surface of civil and political rights, not only to get to the actual roots of conflict but also in terms of non-recurrence. The current exclusion of SECR seems to confirm Nagy, Robins, Hoogenboom and other critical scholars in their claim that 'the global TJ project' is highly normative serving Western values and interests.

Making a case for the inclusion of historical, on-going and structural violence next to SECR, I would like to conclude by connecting TJ and development through the concepts of social and redistributive justice. During his session, Stef Vandeginste demonstrated how most post-conflict countries share both TJ and development challenges. Also, he stated that in literature there is no clear link between absolute poverty and mass human rights violations. There is a link however, between typical 'TJ violations' and (perceived or real) relative poverty – or what Frances Stewart refers to as "*horizontal inequalities*" between groups based on ethnical, socio-economical or political "*identity-markers*" (Stewart 2008). As such, development has the potential to serve as a mechanism of non-recurrence. Addressing the root causes of conflict could not only prevent recurrence but could also be a form of social and redistributive justice going beyond the recovering of economic resources 'stolen' by perpetrators of HR violations. If development is conceived as freedom, as Amartya Sen argues, TJ should share the same goal and also focus on reducing inequality and eradicating poverty (Sen 1999). I therefore suggest that it is time for a new TJ paradigm shift towards social and redistributive justice.

References

- BARAHONA DE BRITO (A.), GONZÁLEZ-ENRÍQUEZ (C.) en AGUILAR (P.). *The politics of memory. Transitional Justice in Democratizing Societies*. Oxford, Oxford University Press, 2001, 413 p.
- BEVERNAGE (B.). *History, Memory and State-sponsored violence. Time and Justice*. New York/London, Routledge, 2011, 250 p.

- BLOMMAERT (J.), BOCK (M.) and McCORMICK (K.). "Narrative inequality in the TRC hearings: On the hearability of hidden transcripts." In: *Journal of Language and Politics*, 5 (2006), 1, pp. 37-70.
- BREMS (E.). *Human Rights: Universality and Diversity*. The Hague, Martinus Nijhoff Publishers, 2001, 579 p.
- CHAKRABARTY (D.). "History and the Politics of Recognition." In: MORGAN (S.), JENKINS (K.) and MUNSLOW (A.) (eds.). *Manifestos for History*, New York, Routledge, 2007, 238 p.
- COMISIÓN PARA LA ESCLARECIMIENTO HISTÓRICO (CEH). *Guatemala: Memoria del Silencio. Tz'inil Na'Tab'Al*. Guatemala, UNOPS, 1999, 8 parts. Available at: <http://shr.aaas.org/guatemala/ceh/mds/spanish/>
- DE GREIFF (P.) and DUTHIE (R.) (eds.). *Transitional Justice and Development. Making Connections*. New York, Social Science Research Council, 2009, 374 p.
- ELSTER (J.). *Closing the Books: Transitional Justice in Historical Perspective*. Cambridge, Cambridge University Press, 2004, 310 p.
- HAYNER (P.B.). *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions*. New York, Routledge, 2011, 356 p.
- HOOGENBOOM (D.A.). *Theorizing 'Transitional Justice'*. London, University of Western Ontario – Electronic Thesis and Dissertation Repository, 2014, 293 p.
- INGELAERE (B.). "The rise of meta-conflicts during Rwanda's *gacaca* process." In: REYNTJENS (F.), MARYSSE (S.) and VANDEGINSTE (S.) (eds.). *L'Afrique des Grands Lacs, Annuaire 2010-2011*. Paris, L'Harmattan, 2011, pp. 303-318.
- KANSTEINER (W.). "Finding Meaning in Memory: A Methodological Critique of Collective Memory Studies." In: *History and Theory*, 41 (2002), 2, pp. 179–97.
- LORENZ (C.). *De constructie van het verleden. Een inleiding in de theorie van de geschiedenis*. Amsterdam, Boom, 2008, 399 p.
- LORENZ (C.) and BEVERNAGE (B.). *Breaking up time: negotiating the borders between present, past and future*. Göttingen, Vandenhoeck & Ruprecht, 2013, 274 p.
- MANI (R.). *Beyond Retribution. Seeking Justice in the Shadows of War*. Cambridge, Polity Press, 2002, 246 p.
- NAGY (R.). "Transitional Justice as Global Project: critical reflections." In: *Third World Quarterly*, 29 (2008), 2, pp. 275-289.
- ORENTLICHER (D.F.). "Settling Accounts' Revisited: Reconciling Global Norms with Local Agency." In: *The International Journal of Transitional Justice*, 1 (2007), 1, pp. 10-22.
- PHILLIPS (M.S.). "Rethinking historical distance: from doctrine to heuristic." In: *History and Theory*, 50 (2011), 4, pp. 11-23.
- PHILLIPS (M.S.). *On Historical Distance*. New Haven, Yale University Press, 2013, 293 p.
- ROBINS (S.). "Transitional Justice as an Elite Discourse." In: *Critical Asian Studies*, 44 (2012), 1, pp. 3–30.
- ROHT-ARRIAZA (N.) and MARIEZCURRENA (J.) (eds.). *Transitional Justice in the Twenty-First Century: Beyond Truth versus Justice*. Cambridge, Cambridge University Press, 2006, 341 p.
- ROUSSO (H.). *The Haunting Past. History, Memory, and Justice in Contemporary France*. Pennsylvania, University of Pennsylvania Press, 2002, 96 p.
- RUNIA (E.). "Presence." In: *History and Theory*, 45 (2002), February, pp. 1-29.
- RÜSEN (J.) (Ed.). *Western Historical Thinking. An Intercultural Debate*. New York, Berghahn Books, 2002, 211 p.
- SCHMID (E.). *Taking Economic, Social and Cultural Rights Seriously in International Criminal Law*. Cambridge, Cambridge University Press, 2015, 359 p.
- SEN (A.). *Development as Freedom*. New York, Oxford University Press, 1999, 366 p.
- SHAW (R.). *Rethinking Truth and Reconciliation Commissions. Lessons from Sierra Leone. Special Report*. Washington, United States Institute for Peace, February 2005, report nr. 130, 12 p.

SHAW (R.), WALDORF (L.) and HAZAN (P.). (eds.). *Localizing Transitional Justice. Interventions and Priorities after Mass Violence*. Stanford, Stanford University Press, 2010, 368 p.

SILVERMAN (M.). *Palimpsestic Memory: The Holocaust and Colonialism in French and Francophone Fiction and Film*. Oxford, Berghahn Books, 2013, 216 p.

STEWART (F.) (ed.). *Horizontal Inequalities and Conflict: An Introduction and some Hypotheses*. Hampshire/New York, Palgrave Macmillan, 2008, 363 p.

TEITEL (R. G.). *Globalizing Transitional Justice. Contemporary Essays*. Oxford, Oxford University Press, 2014, 224 p.

THEIDON (K.). "Justice in transition: The micropolitics of reconciliation in postwar Peru." In: *Journal of Conflict Resolution*, 50 (2006), 3, pp. 433-457.

VIAENE (L.). *Voices from the shadows. The role of cultural contexts in Transitional Justice Processes. Maya Q'eqchi' perspectives from post-conflict Guatemala*. Ghent, doctoral dissertation Ghent University, 2011, 307 p. (supervisor Prof. Dr. Eva Brems).

WILSON (R.). *The Politics of Truth and Reconciliation in South Africa*, Cambridge, Cambridge University Press, 2001, 296 p.

ZOLKOS (M.). Review for Historical Dialogues, Justice, and Memory Network of: CORRADETTI (C.), EISIKOVITS (N.) and ROTONDI (J. V.) (eds.). *Theorizing Transitional Justice*. Farnham, Ashgate Publishing, 2015, 261 p.

Human Rights for Development – a workable concept or a noble mission that will remain abstract?

Fanny Fröhlich

1. Introduction

This paper aims at answering the question of how Human Rights can meaningfully be applied in the realm of development co-operation. Put differently, does “HR4Dev – Human Rights for Development” work in practice or is it a noble mission that in the end will remain a solely ideal and abstract concept? I will look at this question in regard to my upcoming PhD research that deals with the impact of NGO intervention on local communities (both rural and urban) in the Global South, namely Ghana. My aim is to look specifically at how interventions conducted by international NGOs, mainly European or Western, impact the role, status and rights of women in specific communities. I want to both investigate actual changes (or lack thereof), but also (and maybe more importantly) the perception of gender images and gender relations within specific communities after NGO interventions.

My research sets out to inquire whether certain labels such as ‘traditional’ (often equated with ‘being African’) and ‘modern’ (often equated with being European/Western/Enlightened) play a role when it comes to the view of women in the context of (international) NGO interventions. It is a variety of voices and understandings that I am interested in. First and foremost, I would like to learn about the views that the so-called ‘targeted’ younger and older women themselves hold, but also Ghanaian men in specific so called ‘project sites’. Furthermore, I want to investigate the perspective on women as portrayed by NGOs – sometimes more, sometimes less explicit. Was there an interaction between these views? Did movement, moulding, adapting, recreation and reformulation take place in regard to gender images? If so, who were the specific actors involved, and why? Through a critical consideration of the way too simplified dichotomy of ‘African/traditional’ and ‘European-Western/modern’ the study aims to examine whether there is a reciprocity and combination of aspects that make up a variety of gender images present today and informed by historical processes in Sub-Saharan Africa, specifically in Ghana.

I am not only a researcher, but have worked as a development practitioner with a youth-focused NGO in London providing technical support to development programmes in Sub-Saharan Africa mainly focusing on youth employment and enterprise, health, education, justice and disaster risk reduction. The so-called ‘cross-cutting gender aspect’ featured prominently in all of the projects I supported.

My main aim for participating in the HR4Dev summer school was to better understand the conduct and implementation of development work, especially through a Human Rights lens both in an academic way (serving as a preparation for my PhD research) and in a more practical way (linking to my hands-on experiences as a development practitioner). Furthermore, the opportunity to discuss, exchange and share viewpoints with participants from all over the world and with all kinds of backgrounds was a promising outlook that was more than fulfilled during the course of the summer school. I am grateful that I had the chance to discuss themes and topics of vital importance with my colleagues and friends from all over the world, who taught me not only about very different and at

times very difficult realities, but also how to remain hopeful – no matter how challenging a situation seems.

Taking up a bit of an in-between-position, this paper, but also my PhD, aims to create linkages between theory and action; between the world of academia and the world of development practitioners. I do believe that there is a lot of valuable work produced within the academic realm that can be meaningful to the everyday work of development cooperation i.e. in the field of Human Rights Law but also other disciplines such as Anthropology or Sociology. Often though, development practitioners do not know of these studies and are thus less likely to consider its conclusions within their work.

In this paper, I will first reflect on the understanding of development, which was the theme of the first lecture of the summer school. I will then discuss what kind of paradigms help us in understanding the role and experiences of women in the context of development. The main part of my paper is dedicated to presenting concepts and frameworks that, in my opinion, have the potential to be meaningfully implemented in development work incorporating a human rights perspective and able to link the academic realm and the practitioners' realm. These concepts and frameworks are a) the approach of "practical norms"; b) the usefulness of understanding normative frameworks in the context of development cooperation; and c) the legal concept of the Right to Development (RtD).

2. Reflections on development

Development is a broad, complex and highly contested issue. I start from the assumption that the narrative of development is often framed as nations developing *towards* the model of a modern Western/European nation that is portrayed as the peak of progress. (see e.g. McClintock 2004, p. 92) As Sachs puts it, "development's hidden agenda was nothing else than the Westernization of the world." (Sachs 2007, p. 4)

Throughout the last decades, there have been various attempts of broadening the meaning of development, taking it further away from the modernisation discourse of the 1950s and 60s that was mainly focusing on development as economic growth. Amartya Sen (1999) is a prominent representative of these 'other voices'. For him, development is "an integrated process of expansion of substantive freedoms [and capabilities] that connect with one another." (Sen 1999, p. 8)

In the very first lecture of this summer school, we made an attempt at defining development. The readings (HDR 2014, Steckel 2008, Clark) were valuable and interesting, critically reflecting on the scope, risks and limitations of defining development. Throughout the lecture, however, and especially during discussions, Lode Smets, an economist, resorted to narrowly defining development mainly equating it with economic growth. Such a narrow understanding of development can be very problematic and at the cost of a Human Rights approach.

Throughout the summer course, a few themes kept reappearing in various lectures that seem useful to address the question set out in this paper. The concept of 'practical norms', introduced by Jean Pierre Olivier de Sardan during the session on 'Alternative Approaches to Development', looks at the 'situation as it is' as compared to the 'situation as it should be' or 'how certain actors want the situation to be'. In my opinion, practical norms can be useful in understanding the functioning of development and creating more meaningful ways of 'conducting development' in countries of the Global South. Other lecturers (such as Huma Saeed, Giselle Corradi or Catherine O' Rourke) also

looked at the situation on the ground 'as it really is' as part of their work (on socio-economic rights in Afghanistan; legal pluralism; and the role of gender in Transitional Justice).

The notion of the 'private' and 'public' realms was another theme that reoccurred at times throughout the course. Based on the literature I had read, I started to question in the very first lecture how a tool such as the GDP can be a meaningful measurement of development, when it – largely – excludes the activities of nearly half the population. Women, especially in developing countries, tend to conduct their productive and reproductive tasks in the so-called 'private' domain. This *work* is invisible in such parameters as the GDP as it is non-remunerated and (thus) often under-valued. Amita Punj specified in her lecture that the roles of women such as child bearing, child rearing and household chores are often not only unremunerated and unrecognized, but they are also non-negotiable, un-compromising and unending kinds of work. It became clear in O' Rourke's lecture that the private – public divide has a gendered nature and is based on the assumption that the public is a political sphere that requires state regulation while the private is a non-political sphere where the individual is free from state interference. In the context of O' Rourke's work on sexual violence against women, this can lead to problematic implications such as domestic violence being committed against women with no mechanism of holding the perpetrators accountable. O'Rourke argues that doing away with the private-public divide, which some feminists advocate for, could have negative repercussions for women (in a legal and practical regard). She thus promotes the concept of the existence of a 'web of public and private harms against women'.

The link to development cooperation is given, as the development sector does not operate independently of prominent public discourses. A recent shift in NGO interventions away from working on 'violence against women' towards 'gender-based violence' had certain consequences. While the awareness of especially domestic violence as well as the need for including men and boys in those interventions increased, a new item was put on the agenda, namely more targeted programmes on men and masculinity. O'Rourke acknowledges that this led to a competition of resources and priorities in a world, namely the development sector, that has only limited resources available. I do not think that the various 'items' on the GBV 'agenda' have to be mutually exclusive. On the contrary, I think NGO work on gender-based violence aiming to include men and boys actually also targets questions of masculinity.

Yet another recurring theme, that seems to be very relevant in terms of ensuring both successful development, but also the safeguarding of Human Rights (as part of but not limited to transitional justice) is capacity building. Stressed in the presentation by the representative of EuropeAid as a vital aspect of development programming, Stef Vandeginste also made references to this theme. In a discussion with him after his lecture, we could identify that capacity building, while there is a consensus on it being important and needed, also holds potential risks. How can you ensure that a – strong – institution is actually accountable to its citizens? That is an aspect that can be conducive to the safeguarding of human rights. Are capacity-building programme components the same as strengthening these institutions' accountability mechanisms towards their population?

Many of the themes discussed in the lectures, especially the ones I mentioned above, reminded me how important it is to aim at understanding the complexity of systems. It seems that such an aim could be at least partly achieved by looking at very specific situations and specific contexts without losing sight of the broader picture. This perspective will be helpful in my PhD research.

3. Women and Development

Gender was a theme that featured quite prominently throughout the summer course. Whether it was discussed in a broader fashion linking it to the concept of development (Amita Punj) or looking at it in connection with Transitional Justice (Tine Destrooper) focusing specifically on sexual related violence (Virginie Anne Reynald Busck – Nielsen, Catherine O 'Rourke), the lectures were highly interesting, stimulating and a pointer towards meaningful research that is out there in terms of linking Human Rights with gender-specific issues.

In her lecture, Amita Punj introduced us to three paradigms that can be helpful in understanding the role and experiences of women in the context of development – the Women in Development Approach (WID), the Women and Development Approach (WAD) and the Gender and Development Approach (GAD). Due to the scope of this paper, only a brief, but nonetheless important, engagement with these paradigms is possible. It was first the WID approach and especially the work of Ester Boserup, a Danish economist that challenged the assumption that women have no role to play in production. This assumption was quite prominent within development cooperation in the 1960s and 1970s and led to sexual inequalities within development approaches, such as men receiving training (because they were associated with production for the market) and women being restrained to subsistence. In her work *Women's Role in Economic Development* (1970), Boserup points towards the negative repercussions that modernization, especially in agricultural production, can have on women's autonomy. This point was taken up by the WAD approach, which identified both the mode of production (within a capitalist system) and class inequalities as the primary reasons for subordination of women. The GAD approach in a sense went even one step further and identified patriarchy, the pervasive nature of male domination within most societies, as the root cause for domination of women by not only controlling their labour, but also their sexuality and procreation. Both the WAD and GAD approach deal with questions of the public and private domain and the positioning of the sexes within these domains and its repercussions, which links us back to the point made in the beginning of this paper how assigning certain groups to certain domains can have very real consequences in terms of recognition and entitlements.

When the discourse changed from talking about women to talking about gender, a main achievement was to highlight the social construction of gender roles. Gender points to the attribution of roles and expectations to women. It points to roles that are ascribed to women on the basis of culture, society, economic context and a variety of other factors. It is this construction of women-hood, what it means to be a woman at a specific time and in a specific setting, culture and socialisation that I am interested in within my PhD.

In the present discourse on gender, there is more talk on men and masculinities and also the idea of more than one gender is slowly taking shape within mainstream public debates.

Feminist literature presents a critical voice about a variety of issues and themes, often challenging established perspectives. In my research, I am especially interested in the post-colonial feminist discourse, which I think holds potential in terms of theoretical grounding.

Catherine O'Rourke also pointed towards the constructivist element in her lecture where she dealt with the role of women in Transitional Justice. Based on her 2013 work *Gender politics in Transitional Justice*, I was especially interested in her concept of "transition as transformative potential for women and gender relations". She gave the example of reparations being directly paid to women in countries where wealth and the control over money are often in the hands of men. Even though O'Rourke specifically focused on a TJ context, I believe that this can be also

meaningfully incorporated in a development context. Looking at NGO jargon such as *Theories of Change* that serve as a logical basis for development programming show that *change* or a notion of transition is often at the centre of NGOs' intervention logic. From my own experience as a development practitioner there seems to be quite a substantive awareness of that transformative potential – programmes targeting GBV are often a meaningful way for NGOs to engage and interact with certain existing behaviours and attitudes towards women. Slogans such as “Don't teach your daughters not to be raped; teach your sons not to rape!” show the attempt at including men and boys in such programmes. In my opinion, the question and challenge is not just how to open up the field and discourse of 'violence against women' to promote alternative gender relations and ensure men's participation (to meaningfully contribute, support and maybe at times also question certain forms of gender relations). But, how to make sure that 'alternative gender relations' are not translated into imposing a prescribed set of how gender relations should be (from a Western perspective).

Thus, in the course of my PhD, I want to find answers to questions such as

- What understanding of 'women' do specific (international or European) NGOs conducting development interventions in Ghana display? My underlying assumption is that this understanding of women is often rooted in a European-enlightened context and disregards/neglects or at least treats as subsidiary more traditional views of women (within local communities they are working with).
- Do views on women (exhibited by certain NGOs) account for both presumably enlightened European ways of being a woman and traditional African ways of being a woman? Is such a distinction a useful analytical tool?

The concepts of masculinity and femininity that O'Rourke presented in her lecture seem very promising to me in regard to providing some answers to the above questions Especially an engagement with Western models of femininity and African models of femininity will prove highly interesting and useful. (Hofstede 1998, Serano 2007, de Beauvoir 1953, Friedan 1963, Butler 1990)

The theme of Gender and Development is, I would argue, strongly linked to a rights perspective and is part of the discourse framing Women's Rights as Human Rights. An interesting voice in this debate is Sally Engle Merry, an American anthropologist. In her article together with Peggy Levitt *Making Women's Human Rights in the Vernacular: Navigating the Culture/Right Divide*, she critically engages with the statement that Human Rights and Culture are irreconcilable. Often this statement carries a “gendered subtext” which can be clearly seen in the case of Female Genital Mutilation (FGM) “as a classic example of oppression of culture”. Women are portrayed as the victims of culture, in a variety of cases and cultural contexts such as FGM, honour killings, child marriage, dowry murders, etc. Women, then, “as passive and vulnerable persons” need to be rescued – often by a “masculinist state”. Levitt and Merry raise an interesting point, namely that the international Human Rights system in itself has an own trajectory that builds on “Western political theory”. One could even go so far as identifying this system as an own “cultural system [...] premised on ideas of human rights and universality.” Rights in themselves are a cultural phenomenon. In Levitt and Merry's opinion, which I agree with, there exists a misrepresentation of the intersections that take place between human rights and cultural practices. An image that perceives women as being oppressed by their culture only to be saved by the weapon of human rights from their traditional context “misunderstands how rights and culture work and instead builds on imperial narratives of

the civilizing process and the transformation of ‘backward’ society.” (Levitt and Merry in Hodgson 2011) Levitt and Merry’s engagement with human rights and culture in regard to women reminds us of how important it is to *actually* look at and understand the context and the specific situations.

Practical norms try to establish exactly that – the situation as it *actually* is serving as one concept that can be meaningfully implemented in development cooperation.

4. Concepts and frameworks that can be meaningfully implemented in development cooperation

4.a. Practical Norms

In his lecture, Olivier de Sardan outlined his research interest in the delivery of public and collective goods and services in Sub-Saharan Africa including themes such as justice, health or decentralisation. Presenting ‘Alternative Approaches’ to Development, he took a critical stance especially when it comes to NGOs. Usually, within public policy, there exists a framework (norms and structures) to deliver public goods of common interest. But in many francophone Sub-Saharan African countries (Olivier de Sardan’s research focus), it is not only the state that implements these services, but also development institutions. These follow a specific implementation pattern and are perceived – by Olivier de Sardan and others – as outsiders implementing parts of policy.

I found Olivier de Sardan’s research interest in “development anthropology” or “general anthropology of public space” or “anthropology of governance” (Olivier de Sardan, 2009) very interesting and highly useful. His main argument is that when closely studying the reality of goods and service provision, civil servants often *neither* follow official norms (of the state or development institutions such as the World Bank) *nor* cultural practices. Often analysed for the Global North, there is an implementation gap between norms and practices; this is more a reality than a problem per se. In the case of Francophone West Africa, however, Olivier de Sardan claims that this gap cannot be explained by often-stereotypical explanations of gaps between (Western) norms and (local) practices. Rather, he introduces **practical norms**, which incorporate everyday practices of civil servants. These are part of a routine, regulated and predictable and present know-how to deal with a specific system.

Practical norms are an *exploratory* concept, rather than an *explanatory* concept looking at what practices are out there and aiming to show ‘development work as it is’ rather than ‘development work as it should be’. In my opinion, practical norms might point to a way to meaningfully align development cooperation and a particular line of research that is interested in the *de facto* practice, implementation and incorporation of development work rather than an ideal vision of it. Such an approach can be very useful in my PhD research where I also want to assess if and how NGO interventions had an impact in improving the quality of women’s lives in certain rural and urban communities. The question of course remains, how this quality of life for women is defined and which criteria are used to evaluate it.

In the Panel Discussion with NGOs in the afternoon session of the course day dedicated to ‘Alternative Approaches’, the representative of *Broederlijk Delen* (a Flemish NGO) stressed that in his work with social movements in Latin America, there are no “recipes for success”. Rather, experiments are conducted looking at what are the daily practices and how these could be used for making claims towards the government in regard to realization of often very basic human rights.

For me, this was a strong indication that the study of practical norms could be (and already is to a certain extent) a useful tool when implementing development work as an NGO. Not only does it take the actual context and situation of people living in so-called 'target communities' into account, it also tries to frame certain claims and solutions on the basis of these existing situations. Framing claims is envisioned (and ideally also exercised) as an activity between equal partners, namely an NGO on the one side and individuals within (and as part of) a local community on the other side. The concept of practical norms is also mindful of the responsibility and role of civil servants. This concept thus acknowledges the fundamental assumption within Human Rights thinking that it is the state, which is the responsible duty-bearer when it comes to ensuring human rights. What if the state cannot (or is unwilling to) fulfil its responsibility in ensuring the provision of human rights however? What if it cannot (or claims it cannot) safeguard against the violation of human rights? Or, even worse, what if the state itself knowingly commits human rights violations? Those questions are pressing and relevant especially in a Sub-Saharan African context. Is it not exactly in these kinds of circumstances that the work of (national and international) NGOs becomes relevant? In practice, NGOs sometimes take on part of the service delivery responsibility that ideally should be realised by the state (with a variety of consequences).

Olivier de Sardan is quite critical of NGO work especially in Niger and outlines that there is often a misfit between what he calls the "mechanism" and the "context". Standardised models (of NGO development work) travel and become a blueprint that does not leave scope for local implementation. But according to Olivier de Sardan, it is exactly this local reality - the context - that accounts for effective implementation of programmes (for him it is a 80 – 20 ratio; 80% context, 20% mechanism). Going one step further, he also argues that it is the – actual - context and the acknowledgement thereof that will lead to a qualitatively high level of programme implementation. Using the example of cash transfers, Olivier de Sardan argues that certain activities implemented are not simply methods and tools of development work, but also a system of norms and rules often defined by experts without dialogue with people, who are targets of these activities. This links us back to the point made before in this paper, namely the pervasiveness of – more or less apparent – normative frameworks and their impact on how programmes are implemented. Thus, there is a need to be aware of the normative frameworks certain stakeholders adhere to when development programmes are implemented.

During the summer school, I was challenged to reflect on NGO work also in terms of constructing and implementing normative frameworks (that are sometimes not compatible with local frameworks). While Olivier de Sardan's lecture was highly interesting and will be beneficial to my research, I sharpened my view about his points not least in the discussions with my fellow summer school participants, especially those who are development practitioners.

The critique, mainly brought forward by one of my colleagues and friends, entailed that Olivier de Sardan's points are not new, neither in terms of content nor in terms of suggestions for solutions and improvement. Especially in the case of cash-transfers, NGOs exhibit a substantial expertise – one reason for example to go away from cash-for-food programmes towards cash transfer programmes was *not*, as Olivier de Sardan suggested, the increased costs on the side of the NGOs by the former method, but the realization on the side of NGOs that food import actually has destructive repercussions on local food production. Often in countries whose main sector of income is the agricultural sector. My colleague pointed out as well, that Olivier de Sardan subsumed all kinds of actors when he referred to NGOs. There are important differences and variations however in how large donors and development organisations implement their programmes (which Olivier de

Sardan's critique seemed to be targeted at) and the reality of project work implementation of smaller to mid-sized NGOs, which often take a more critical and differentiated stance in line with local realities.

How can NGOs meaningfully contribute then? I found Olivier de Sardan's concept of "reforms from inside" very useful when looking for a way forward. These reforms do not rely on standardised mechanisms, but focus on starting reform from real practices as a way of dealing with reality. A first step is to identify reformers from the inside. One could then try to connect reformers from the inside and try to lay down a norm framework in line with practical norms. Unfortunately, this area was not explored in great detail and a variety of questions were left unanswered such as how does one go about identifying reformers? Or, who is to lay down a norm framework in line with practical norms? It is a promising concept and one I will surely conduct more research on. In my opinion, the actor-friendly approach of "reforms from the inside" could be an area for NGOs to meaningfully invest their strengths and expertise.

4.b. Understanding normative frameworks in the context of development cooperation

In my opinion, considering the idea of normative frameworks (touched upon in a few lectures of the HR4Dev summer school) has great potential to strengthen meaningful development cooperation in practice. Furthermore, I think it has the potential to help me better understand how women in local communities in Ghana perceive themselves, how others (men in the community, but also other stakeholders such as NGOs) perceive them and how normative frameworks can be useful in making claims (on rights).

Koen de Feyter's lecture was helpful in realising that more often than not Human Rights claims are not followed up with a legal strategy, but with alternative strategies (such as demonstrating for the realization of rights, seeking for support of political parties or holding local and municipal authorities accountable). If a legal approach is adopted, the traditional HR law would look at the state identified as the primary duty-bearer and essential in determining the practical outcome of a claim. Koen de Feyter then asked the question whether global or regional institutions (such as the African Court on Human and Peoples' Rights) are willing to learn from experiences on the local level and if they are thus becoming more effective in dealing with local HR issues. Can a new normative HR framework be influenced by local experiences on the ground?

In every society, in every local community, there are a variety of normative frameworks present. When talking about Truth Commissions and their endeavour of finding the 'objective truth', Berber Bevernage introduced us to the concept of "subjective multi-perspectivity". A concept, that I think can be meaningful in my research. Touching upon the question of legitimacy, Bevernage made clear that not every narrative has equal legitimacy – this statement seems to be especially relevant in the context of NGO interventions where, at the end of the day, donors' voices are way louder than the voices of those targeted (for better or worse reasons).

Giselle Corradi's lecture gave me valuable insights on the concepts of legal pluralism that will be useful in addressing my PhD research. Corradi understands legal pluralism as "co-existence of more than one legal order in the same social field" and it is especially to be found in a post-colonial Sub Saharan African context. The import of the colonisers' law added to the already existing frameworks of customary law and in some cases Islamic law. In her lecture, Corradi pointed out that studies undertaken in the 1970s on dominant and subordinate groups identified both official and unofficial norms that are at play in a society. This, to me, links clearly with the concept of practical norms that

also looks at a variety of mechanism – both legal and non-legal – to implement certain normative frameworks. Corradi pointed out that especially in cases where the state structure is fragile and plays a marginal role, other laws and norms are at play. The co-existence of various sources of normativity – independent of state recognition or not – has an impact on how things are ordered in practice. This is a useful point in regard to my future research, but also in regard to better understanding development cooperation from a practical perspective.

Looking at it from a legal perspective, Corradi understands law as “any norm that has the capacity to influence a field where Human Rights are at stake.” Actors that can solve disputes – an important aspect of the legal framework – are not only (state and traditional) courts or the official police but often a variety of other actors such as Village Elders, family heads, traditional healers, NGOs, etc. NGOs also display normative frameworks – more or less apparent - which, I would argue, both influences their work, but also the people they are working with. How this influence shapes ‘target groups’ especially in regard to women’s roles, status and rights is something I am interested in. Thus, the following questions are part of my research:

- Is the NGOs understanding of women explicit or implicit? I assume that this definition of women is often not made explicit. Still, NGO interventions will be guided by their understanding of women in how to target women ‘beneficiaries’. Often, when something is not clearly defined, it can be an indication that it is a concept that is taken for granted or seen as ‘normal’. I am especially interested in these assumptions as they are often not questioned and people are less likely to be transparent and critical about them – and thus more susceptible to (political) messages framed along these ‘normal’ concepts.
- Are women mentioned and targeted as part of ‘the gender aspect’ to be taken into account by NGO work? What are the implications of that? I assume that this is often the reality – to mention/target women as an especially vulnerable group. In my opinion, this holds a real danger and risk of victimizing women. It is not women per se that are weak, but the conditions they find themselves in. I am fully supporting the approach of many NGOs to adopt a ‘gender lens’ in their work, but I am posing the question what kind of implications it can have if female-hood per se is constructed as a weakness and vulnerability. Is this not exactly the view many NGOs want to combat by empowering women?
- Assuming that NGOs take certain global and/or international definitions of women into account, I want to inquire which other definitive and normative frameworks specific NGOs link their definitions of women to (UN docs, etc.).

In my PhD research, I am thus interested in assessing how women perceive themselves and are perceived in rural and local communities in Ghana where they live in a setting with a variety of (sometimes competing) normative frameworks. The outlook of local communities (on a variety of issues including the role, status and rights of women) may be based on factors such as ethnicity, communal thoughts, the socio-economic situation including the challenge of poverty, the impact of NGO interventions, reflection and implementation of national and state views in the form of public policies, etc. All these components may or may not be more or less aligned with each other or they could also stand in outright opposition to each other. Concepts such as modern (often being equated with European/Western norms and forward-looking) or traditional (often equated with traditional African norms and backward-looking) are often problematic. Being rich and complex, these concepts are often reduced to a simplistic meaning and used for a variety of strategic

purposes. Being uncertain dismissing these concepts could be useful, I am surely arguing for a more sensitive, social constructivist view to both of these ideas and to bear in mind how they are used and moulded in different ways by a variety of actors (both political and social such as the state or specific politicians, local communities or specific indigenous persons, NGOs, CSOs, etc.) for a variety of purposes (nation-building and community building by using an 'us vs. them' logic; making claims on moral superiority, etc.).

Corradi's article (2011) can be useful in further exploring the links between "women's lived realities with plural law and development interventions". (Corradi, 2011: ix) Engaging further with the field of project law can help me to better understand the normative structures NGOs adhere to.

In a discussion I had with Giselle Corradi after her lecture, she pointed out something very valuable to me: Don't assume that actors in developing countries have no voice! Their voice might be suppressed/ restrained, but it can be a researcher's task to figure out what conditions need to change and how for their voices to be stronger and more heard. The concept to be discussed in the next section, namely the Right to Development, adopts such a 'perspective from below' and maybe has the potential to make voices of actors in developing countries more heard.

4.c. Right to Development

According to Stephen P. Marks (2003) and as presented in the overview lecture by Wouter Vandenhoe, there are two fundamental ways of linking Human Rights and Development. One is the Human Rights Based Approach to Development (HRBA); the other is the Right to Development (RtD). Due to the scope of this paper, but also because I believe that the RtD has a stronger empowering potential, this section focuses on RtD.

Amita Punj interestingly, thoughtfully and insightfully presented the RtD to us. The Declaration on the Right to Development (1986) is a non-binding legal document and can be relegated to the sphere of soft law. Currently, there are debates whether a legally binding document would be advisable or not. Taking us through the declaration, Punj pointed out that RtD understands development as an all-encompassing, comprehensive social, economic, political and cultural process of advancement. It aims at raising the well-being of entire populations and all individuals, which presents both a dismissal of development as economic growth and a dismissal of the utilitarian approach. Rather than adopting GDP as the dominant indicator for development, the RtD displays an understanding that is more closely linked to Amartya Sen's (1999) notion of development as growth in substantial freedoms and capabilities to lead the kind of life she/he has reason to value.

The idea of RtD was initially brought forward by the Non-Aligned Movement in the context of the Cold War propagating a New International Economic Order (1974), which included the claim that former colonisers should provide development aid to former colonies. Art. 2 (3) of the RtD mentions fair distribution of benefits as intended outcomes. This can be seen as a protest against a specific kind of development initiative, namely the Structural Adjustment Programmes of the World Bank in the 1980s, leaving many people behind. The African Charter on Human and Peoples' Rights is the only legally binding document that recognizes the RtD currently. Amity Punj presented various added values of the RtD, while making us aware that these are highly debated. The RtD includes: recognition of collectivity; meaningful, free and active participation in the process of development, which ensures accountability; a comprehensive and holistic approach to development; the notion of inclusive and equitable distribution; and social justice.

Bearing in mind the intended outcomes of the RtD, the historical context it was created in as well as the list of added values, the RtD seem to strengthen both the voice of individuals and states in developing countries. In informal talks with some of my colleagues and friends from the Summer School, especially those from the Global South including many African countries, I sensed a feeling of ownership and hopefulness for – greater – functionality of this legal tool. One colleague and friend, who works with a Flemish NGO, actually presented a case from his work experience. When working with a HR group in a developing country, the RtD was the best document to frame their claims as it really captured how they wanted to criticize the government. Its strength, according to my friend, lies in the particular way it puts together aspects, which is not to be found in any other instrument. He linked it especially to the aspect of participation, which puts human beings, especially beneficiaries, at the centre of the development process.

Of course, the RtD is not an ideal tool – there are many aspects to be criticized as well. Especially in regard to women, Punj outlined that the RtD exhibits major gaps. Art. 8, which relates to the participatory aspect, was very exclusionary towards women at the time when this article was mainly framed as state participation. It is often predominantly men that inhabit the state and public sphere, especially in the Global South. Making a reference to self-determination, the declaration on the RtD initially meant states and communities. What about the self-determination of women then and their freedom to make choices for their own life? Art.5 of the declaration on the RtD glaringly lacks a reference to discrimination on the basis of sex (while other discriminated groups are mentioned). In sum, a major critique of the RtD then is that there needs to be a greater emphasis on women and women's roles within the development process. Arne Vandenbogaerde's lecture actually went so far as to question the whole existence of RtD claiming it actually has no added value and those aims it wants to achieve can also be achieved with the help of other – already existing - legal documents.

Nonetheless, especially in its potentiality and probably less so in its actual form at the moment, the RtD might be a tool to enable certain groups to find their voice who have been denied one for too long – also in regard to development cooperation.

5. Conclusion

My overall conclusion is, firstly, that I am grateful to have been a part of such an engaging and enriching learning experience. For the purpose of this paper, I tried to outline how Human Rights can actually and practically be incorporated in the everyday work of development cooperation. I analysed this question through the lens of my PhD research, which deals with the impact of NGO intervention on local communities in the Global South, namely Ghana, in regard to women's roles, status and rights. I mainly identified three areas that have the potential to be meaningfully incorporated into development work to raise the safeguarding of Human Rights and link academia and the world of development practitioners, a) practical norms; b) the understanding of normative frameworks; and c) the Right to Development.

I conclude that the notion of practical norms can be useful to identify the actual reality on the ground on which NGOs should base their interventions on (and already do to a certain degree) while bearing in mind the multiplicity of normative frameworks relating to Human Rights one way or another. This "subjective multi-perspectivity" also influences how women are perceived especially in regard to their rights. Women's rights often find themselves in a contested arena where culture is presented as irreconcilable with human rights. Some scholars question this notion and advocate for looking at the – way more complex – interactions between women's human rights and the cultural context on the ground linking us back to the idea of practical norms. The Right to

Development then comes in as a potentially strong tool for empowerment that acknowledges alternative versions of development and might even offer a scope for defining this development always a-new depending on the local group and individuals and the local context. It furthermore might become a tool for strengthening the voices of those that for too long have not been heard – I, for my share, am very curious what they have to say.

References

- Boserup, Ester (1970): *Women's Role in Economic Development*. London: George Allen and Unwin Ltd.
- Butler, Judith (1990): *Gender Trouble. Feminism and the subversion of identity*. New York: Routledge
- Clark, David A. (2005): *The Capability Approach. Its Development, Critiques and Recent Advances*. Working Paper. Global Poverty Research Group.
- Corradi, G. (2011): Access to justice in Pemba City. How exploring women's lived realities with plural law uncovers programmatic gaps. In: *Journal of Legal Pluralism* (64): 1-31.
- de Beauvoir, Simone (1953): *The Second Sex*. New York: Knopf
- Friedan, Betty (1963): *The Feminine Mystique*. New York: W. W. Norton
- Hofstede, Geert (1998): *Masculinity and Femininity. The Taboo Dimension of National Cultures*. Sage
- Levitt, Peggy and Merry, Sally Engle (2011): Making Women's Human Rights in the Vernacular. Navigating the Culture/Right Divide. In: Hodgson, Dorothy L. (ed): *Gender and Culture and the Limits of Rights*. Pennsylvania: Univ of Pennsylvania Press, pp. 81-100
- Marks, Stephen P. (2003): *The Human Rights Framework for Development. Seven Approaches*.
- Marks, Stephen P. (2011): The Politics of the Possible. Achievements and Challenges of International Agreement on the Right to Development. Available at: < http://www.fes.de/GPol/pdf/Marks_PoliticsOfPossible.pdf > [Accessed 15.11.2015]
- McClintock, Anne: 'No Longer in a Future Heaven'. Gender, Race and Nationalism. In: McClintock, Anne; Mufti, Aamir; Shohat, Ella (Hg.): *Dangerous Liaisons. Gender, Nation and Postcolonial Perspectives*. Minneapolis und London: University of Minneapolis Press, 2004, pp. 89-112
- Olivier de Sardan, Jean Pierre (2009): Development, Governance and Reforms. Studying Practical Norms in the Delivery of Public Goods and Services. In: Hagberg, S and Widmark, W (eds.): *Ethnographic Practice and Public Aid. Methods and Meanings in Development Cooperation*. Upsala: Acta Universitatis Upsaliensis, Upsala, Studies in Cultural Anthropology 45.
- O' Rourke, Catherine (2013): *Gender politics in Transitional Justice*. Routledge
- Sachs, Wolfgang (2007; 1992): Introduction. In: Sachs, Wolfgang (eds.): *The Development Dictionary. A Guide To Knowledge As Power*. New York: Palgrave
- Sen, Amartya (1999): *Development as freedom*. 1st edition. New York: Oxford University Press.
- Serano, Julia (2007): *Whipping Girl. A Transsexual Woman on Sexism and the Scapegoating of Femininity*. Berkeley: Seal Press
- Steckel, Richard H. (2008): Standards of living (historical trends). In: Durlauf, Steven N; Blume, Lawrence E. (eds.): *The New Palgrave Dictionary of Economics*. Second Edition.

The European Commission's Joint Staff Working Document on the Framework on Support to Transitional Justice: A Critique From the Global South

Phanuel Kaapama

Introduction

I come from the academic background, where my primary areas of research and teaching interests revolve generally around issues of development theory and practice, focusing more on constitutional building, transitional justice politics and questions of the agricultural land in post – conflict settings. This month long Advance Summer Course on Human Right for Development and Transitional Justice therefore provided me with a platform for the critical exploration of the theories, concepts, discourses and practices on human rights, transitional justice and development, as well as for mapping thematic areas of interest, for future academic inquiries.

This paper makes use of the European Commission's Joint Staff Working Document on the Framework on Support to Transitional Justice, in the juxtaposition of the intricate interfaces between theory and public policy practice. This Working Document was initiated through the office of the European Commission's High Representative for Foreign Affairs and Security Policy, and is scheduled for presentation the 28 European Union (EU) foreign ministers for their endorsement hopefully by the end of 2015. The document affirms the EU's commitment to the promotion of peace, democracy, human rights and development, which is exemplified through a number of practical examples. Firstly, the fact that it is not only an important player in the field of transitional justice, but also solid legal and policy put in place for more consistent support for transitional justice. Secondly the EU through its geographic and thematic external assistance instruments remain the biggest financial contributors and would most properly also continue as such for 2014 – 2020 cycle, to transitional justice initiative worldwide.¹

Is There Something Really New and Unique about Transitional Justice?

Arthur² attributed the first recorded use of the concept of transitional justice to a Boston Herald reporter, by the name of Mary Jo Palumbo, in her article published April 5, 1992. Whereas popularisation of this concept in the academic circles can be attributed to Neil Kritz's 1995 publication of four volume compendium titled 'Transitional Justice: How Emerging Democracies Reckon with Former Regimes', which came to be considered as one of the canons of transitional justice academic literature. Although the concept of transitional justice came into use in the early 1990's, however its formal recognition as a self – conscious and distinctive academic discipline only started to emerge sometimes after 2000, and have since witnessed phenomenal growth. By 2009 it has succeeded to amass a broader, multidisciplinary theoretical posture.³

Yet in Prof Stephan Parmentier's presentation on the Origin and Models of Transitional Justice, among others, brought the Nuremburg Trials of the late 1940s into the frame of discussions. Similarly Dr Piero Sullo's presentation also highlighted example of post – conflict constitutional building experiences which goes as far back for a number of centuries. In fact Elster suggested that humanity has a history of war crimes tribunal that extends at least 2 000 years into the past, going back to the political upheavals in ancient Athens.⁴

Therefore although the characterization of Transitional Justice as a new and distinct academic discipline cannot be challenged, however given the fact that the transitional justice public policy discourses and practices may have been practised long before the mid – 1980s and the twenty – first century, the question that begs for answers is what is really new or different or unique in the recent trends of transitional justice practices that warrant this heightened attention?

The difference or uniqueness of the transitional justice policy and academic movement is authenticated by the fact that compared to any other prior historical epoch – from the mid – 1980s onwards to the first one and half decade of the twentieth century, the world witnessed unparalleled deployment of various transitional justice tools, such as truth commissions, international legal instruments and institutions, criminal trials and tribunals.

These were further capped by the fact that in 1997 the UN unveiled findings of its commissioned report that put forth a number of principles for combating impunity. These became widely known as the ‘Joinet Principles’, which among other advocated for the right to know, to justice and to reparations. And in 2004, Kofi Annan, the UN Secretary General further pinned his organisation’s flag to the normative mast of transitional justice international public policy discourses, by publicly formalising his organisation’s commitment to these normative stances.⁵

The Overarching Significance of Human Rights

The overarching significance of the human right discourse, have led to a number of interesting debates, not only during the Advance Summer Course, but also in the relevant academic literature.

Firstly, there is a widely held reasoning in terms of which of the emerging transitional justice scholarly discourse have crystallised into a clear hegemonic legalistic intellectual and policy master narrative, which according to Bell⁶ epitomises an implicit effort to order and impose legalistic norms of thought. This is particularly evident from the rapid expansion of international legal norms for the governance of post – conflict transitional political processes.⁷ On these bases legitimate questions are being raised regarding the effects that this trend may have on transitional justice claim to multi - disciplinarity.

The presentation of Prof Berber Bevernage to the Roundtable on Memory and memorialization, brought these concerns to the fore, especially in its dealing with the long held social scientific notion of there being no universal truth that could claim validity for all times and circumstances. Hence the questions – should transitional justice strive for one set of truth or a multiplicity of truth; what owes to be the place of alternative discourses of truth vis – a – vis the dominant discourse of truth; and what implications could all these have towards transitional justice, memorialization and truth politics, the right of victims and victim family to know the truth? The dominant narratives and the alternative narrative and their underpinning interrelationships of power, domination and contradictions

Secondly, the increasing dominance of international criminal justice discourses, is said to not only overshadow other important elements of transitional justice, such as reparation, but also limits the scope for legal pluralism. This concern became evident in the debate in response to the presentation by Dr Giselle Corradi on Human Rights and Legal Pluralism.

However the EC Working Document that was alluded to earlier draws on the Report of the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-recurrence, in particular the recognition that victims are holders of rights who are, *inter Alia*, entitled to the right to effective remedies, including most interestingly the right to adequate reparation as enshrined in

international law. One such international legal instrument that is explicitly cited in the EU Document is the international humanitarian law as found in article 3 of The Hague convention respecting the Laws and Customs of War on Land of 18 October 1907.⁸

Why should the Interrelationships Between Transitional Justice and the Right to Development Matter?

Whilst cautioning against generalized suggestions that poverty is responsible for group violence, as these may run the risk of drawing on an oversimplification of empirical connections that may be far from universal, Amartya Sen⁹ made two important acknowledgements. Firstly, the injustices of inequalities can generate intolerance, and secondly that the suffering of poverty can provoke anger and fury, both of which may ultimately be expressed through bloody rebellion. He further suggested that given the co – existence of violent conflict and poverty, it may therefore not be unnatural at all to ask whether poverty kills twice – first through economic deprivation, and second through political carnage. This analogy came out forcefully in the presentation by Prof Stefan Vandeginste.

Similarly in her illustration of how human rights violations may become both causes and consequences of violent conflict, Parlevliet¹⁰ used the metaphor of an iceberg. The top pointing to above the waterline, represents the human rights violations that are self-evident or visible, such as those commonly associated with violent conflict. The bottom of the iceberg hidden below the waterline symbolizes violations of human rights as causes of violent conflict, which may represent those situations where denial of human rights is embedded in the structures of how the state and its institutions are organized and operate, as well as how society functions. These latter conditions more often create structural fault lines that eventually provide fertile ground for the outbreak of violence.

Yet socioeconomic issues have been kept to the periphery of mainstream transitional justice discourse. Muvingi¹¹ attributed this trend to the following three factor: the pre – occupation with the cession of violence and the transfer of power; the subservience of social and economic rights in the dominant human rights and transitional discourse and practice; and the dominance of the neoliberal free market global paradigm, which is perceived as the only viable path to development and human well – being.

Roht – Arriaza¹² defended subservience of social and economic rights in the dominant human rights and transitional justice discourse and practice, by arguing that the *“broadening the scope of what we mean by transitional justice to encompass the building of a just as well as peaceful society may make the effort so broad as to become meaningless”*. However this argument was refuted by Carothers¹³ who pointed out that these narrowed – lens of transitional justice could be responsible for more harm, by muddling rather than illuminating political analyses of conflict riddled societies’ passage from violence to peace.

The fall of the communist bloc in Eastern Europe, have given rise to what some scholars call the dominant and triumphant political vocabulary of the neo – liberal Washington consensus. For instance according to Francis Fukuyama¹⁴ all rival and alternative forms of political identity have been eliminated, as they have failed to satisfy either the desire for wealth or the desire for freedom.

The reasoning underpinning the purported dominance of the neoliberal free market global paradigm, which has come to be regarded as the only viable path to development and human well – being, was evident from the first presentation for the Advanced Course, by Dr. Lode Smets on the Development Paradigms. Here the aspect of growth repeatedly cropped up in the process of

defining development, leading to a number of valid questions – such as growth for who, is growth really synonymous to development, can one have growth without development, how real is Real GDP Per Capita etc.?

It is however argued by critics¹⁵ of the neo – liberal Washington development consensus that inasmuch as this model of development may have led to significant socioeconomic development for some, there are equally also well – documented evidence of how these systems have been feeding a cycle of poverty, debt and economic marginalization among the world poorest.

To address this anomaly, Louise Arbour¹⁶, the UN High Commissioner for Human Rights urged the discourse of transitional justice to embrace “...*the ambition of assisting the transformation of oppressed societies into free ones by addressing the injustice of the past through measures that will procure an equitable future.*”

The Conflation of Redistributive and Restorative Justice Demands

The EC Working Policy Document, drew on the wisdom of the UN Guidance Note of the Secretary General on the UN Approach to Transitional Justice, by including the following catalogue of reparation programme “...*range of material and or symbolic benefits to victim. They can include individual and collective measures such as monetary compensation, rehabilitation, measures of socioeconomic reintegration, return of property or compensation for loss thereof, but also official public apologies, building museums and memorials, and establishing days of commemoration*”.¹⁷

The Working Policy Document went further to enunciate its framework, in which transitional justice is considered as an integral part of EU external assistance, recognizing in this regard the May 2014, the significance of the Council's conclusion on a right-based approach (RBA) to development cooperation towards the strengthening of its commitment to ensuring protection, promotion and fulfilment of human rights through a RBA.¹⁸

However, there may be tensions between redistributive justice through development and restorative justice through reparation. The former presupposes the attainment of a system for the apportionment of privileges, duties, goods and services in consonance with the goals of equality and equity, and in the best interest of society as a whole. The latter on the other hand is defined as a process for undoing the harm done by undoing the damage, reparation, restitution and restoration, which is primarily undertaken with the view of empowering affected individuals and communities to take control of their own lives.¹⁹ To give an example, suppose at the termination of a situation of violent conflict, restorative justice as great priority may have to go to the victims who endured injustices, even where the perpetrators may at that point in time be demonstrating a greater or urgent need for assistance.

A number of scholars²⁰ raised in this regard some pertinent yet complex juxtapositions between the politics of recognition and the politics of redistribution. For instance how can the notions of restorative justice and redistributive justice be rendered compatible? The potential dilemma that such competing claims for justice may create for those against whom such claims are directed.

Arthur²¹ however observed that though generally recognised as an essential element of coming to terms with a violent and repressive past, the issues of rehabilitation and compensation of the victims for their endured harm seem to have received the least attention and thus remain one of the least developed thematic areas of the transitional justice theoretical and policy discourse. Therefore one would wonder as to what could be the effects of conflating the redistributive and restorative justice demands on transitional justice in the longer – term?

Clashes or Cohabitation of the World's Civilizations?

Various presentations highlighted the potential roles of alternative indigenous transitional justice discourses. For instance Dr Bert Ingelaere, Dr Alphonse Muleefu on Gacaca; Prof Rianne Letschert that made reference to Amartya Sen's notions of Niti and Nyaya; Prof Wouter Vandenhole reference to the indigenous value – systems of Sumak Kawsay in Ecuador and Bolivia, whereas Benjamin Alipanga outlined the mato oput traditional cleansing and reconciliatory ceremonies among the Acholi of Northern Uganda.

In literature one also come across many other indigenous value – systems that this Advance Course may not have dealt with, such as the Ubuntu philosophy, which according to Nabudere²² stems from the wellspring that flows within African existence and epistemology, Ubuntu is founded on the generality and oneness of Umuntu (the human being) as the maker of his/her own world, as well as the politics, religion and law constitutive of such a world.

For many years, scholars from various social sciences disciplines have continued to suffer from a syndrome that is characterized by an enduring trivialization of the African continent and its people, as well as their civilization and value systems. To cite a few examples - Hegel in his 'Introduction to the Philosophy of History' made the following rather slurring remarks *"At this point we leave Africa, not to mention it again. For it is no historical part of the world, it has no movement or development to exhibit. Historical movement in it – that is in its northern part – belong to the Asiatic or European world...What we properly understand by Africa is the unhistorical, Underdeveloped Spirit, still involved in the condition of mere nature, and which had to be presented here as the childhood of the world history"*²³. Thus in his view Africa *"has remained cut off from all contact with the rest of the world; it is the land of gold, forever pressing in upon itself, and the land of childhood, removed from the light of self – conscious history and wrapped in the dark mantle of night"*.²⁴ In another instance a former French colonial governor accused the African continent of having led a *"traditional existence shielded from the outside world, as though it were another planet"*.²⁵

One of the most recent examples is that of Fukuyama who in his 'Second Thought' stated *"...and sub – Saharan Africa has so many problems that its lack of political and economic development seem overdetermined"*.²⁶ In these contexts notions such as those of the so – called 'end of history' as promoted by Fukuyama, which proclaims the triumph of particular set of truth over all other heretical doctrines, were however criticized by Mutua²⁷ for not only failing to understand the dynamic nature of social formations, but also for their attempts to disable humanity to imagine other new alternative futures.

Given these historical experiences the following question by Manzo²⁸ becomes very pertinent *"Just how independent of imperial relations of power is the knowledge produced by modern academic disciplines?"* The same question could be asked regarding the independence of the preeminent transitional justice academic discourses, and it's accompanying public policy outlooks, from both the present as well as previous imperial relations of power. The presentations by Profs Stefan Smis and Eva Brems in a way also brought to the fore the simmering uneasiness with the contested conception of human rights as a product of western thought.

Therefore based on what has been witnessed thus far, it remains to be seen as to how open can the preeminent discourses of transitional justice be towards potential roles of alternative indigenous transitional justice discourses?

On its part, the EC Working Policy Document, dealt with critical issues of accessibility of victims and affected communities, cultural sensitivity, local ownership and inclusivity, meaningful participation in order to avoid their marginalization. Hence it encourages EU member states to adopt victim - centred approaches, in which the specific interests and needs of the most vulnerable should be accorded the greatest possible priorities. In this regard it went further to suggest the following means for the attainment of public acknowledgement - supporting outreach activities, including public consultation, media engagement, dissemination of information, and in general, strategies to engage the public while addressing the potential for disconnect politics and populations. For these reasons the Working Policy Document commits the EU where appropriate to support alternative ways of establishing justice, i.e. Mediation practices or traditional - based mechanisms which are in line with international standards, which can complement formal criminal proceedings.²⁹

This policy stance projects a progressive outlook, however road towards redressing the cultural violence, which continues to privilege western civilization and knowledge systems, by interpreting it as not the only one endured with values and norms but capable of global outreach, would be long.

The Omission of Transitional Justice Mechanism in Respect of Enduring Historical Injustices

The Enduring historical injustices not dealt with in this Advanced Summer Course, in spite of some references made in passing. Nonetheless given the legacies of past colonial rule by various EU members' states in various part of the world, this topic should be critical in the context of the EC Working Policy Document.

In its advocacy for the greater recognition of the rights of victims of violence and injustices, including the right to effective remedy and adequate reparation as enshrined in international law, the EC Working Document drew among others on the provision of the international humanitarian law as found in article 3 of The Hague convention respecting the Laws and Customs of War on Land of 18 October 1907.³⁰

It is primarily designed to guide the EC operations, and not necessarily to the respective member states, who are guided by the own domestic policies. In this regard one of the presenters at the briefing meetings with representatives of EU institution, provided a confirmation that the right to reparation for enduring historical injustices could be challenged by some EU member states", yet interestingly the document recognizes the wealth of experience of its member states in dealing with the past.³¹

In the aftermath of the Cold War, the operations of international bodies such as the UN and EU are no longer hamstrung by the paralysis of West – East ideological rivalry, Thus according to Evans³² the post – Cold War world order no longer reflects the realist tenets that assumed a strict separation between internal and external affairs. However in the case of EU and its membership, the old dispensation characterised by the now discarded principles of sovereignty, non – intervention and domestic jurisdiction as hallmarks of traditional positivist international law, seems intact, especially with regard to the issue of reparations in respect of that continent's enduring legacies of colonial injustices.

References

Arthur P. (2009). 'How "Transitions" Shaped Human Rights: A Conceptual History of Transitional Justice'. Human Right Quarterly, Vol. 31.

Bell, C. (2009). 'Transitional Justice, Interdisciplinarity and the State of the Field or Non - Field', International Journal of Transitional Justice, Vol. 3.

European Commission's (EC) High Representative for Foreign Affairs and Security Policy,(2015) Joint Staff Working Document on Framework on Support to Transitional Justice.

Evans T. (2005). 'International Human Rights Law as Power/Knowledge', Human Rights Quarterly, Vol. 27 (3).

Galtung J. (2001). 'After Violence, Reconstruction, Reconciliation and Resolution: Coping with Visible and Invisible Effects of War and Violence' in Abu – Nimer M. (ed.), Reconciliation, Justice, and Coexistence: Theory and Practice, Lanham M.A.: Lexington Books.

Murithi, T. (2012). 'Africa's Relations with the ICC: A Need for Reorientation', Perspectives: Political Analysis and Commentary from Africa, vol. 1.

Muvungi, I. (2009). 'Sitting on Powder Kegs: Socioeconomic Rights in Transitional Societies'. International Journal of Transitional Justice, Vol. 3.

Nabudere D.W. (2010). Ubuntu Philosophy, Memory and Reconciliation <http://repositories1.lib.utexas.edu/bitstream/handle/2152/4521/3621/pdf>. <downloaded October 22, 2010>.

Nagy R. (2008). 'Transitional Justice as Global Project: Critical Reflections'. Third World Quarterly, Vol. 29 (2).

Nkiwane T.C. (2001). 'Africa and International Relations: Regional Lessons for a Global Discourse', International Political Science Review, Vol. 22 (3).

Pankhurst, D. (1999). 'Issues of Justice and Reconciliation in Complex Political Emergencies: Conceptualizing Reconciliation, Justice and Peace'. Third World Quarterly, Vol. 20 (1), pp. 252.

Parlevliet, M. (2010). 'Rethinking Conflict Transformation from a Human Rights Perspective'. Berghof Handbook Dialogue, No. 9.

Sen, A. (2008). 'Violence, Identity and Poverty'. Journal of Peace Research, Vol. 45 (5).

Short, D. (2005). 'Reconciliation and the Problem of Internal Colonialism'. Journal of Intercultural Studies, Vol. 26 (3).

Vernon R., (2003), 'Against Restitution', Political Studies, Vol. 51, pp. 549; Spinner – Halev J., (2007), 'From Historical to Enduring Injustice', Political Theory, vol. 35 (5), PP. 574.

¹ European Commission's (EC) High Representative for Foreign Affairs and Security Policy,(2015) Joint Staff Working Document on Framework on Support to Transitional Justice, pp. 3, 5

² Arthur P. (2009). 'How "Transitions" Shaped Human Rights: A Conceptual History of Transitional Justice'. Human Right Quarterly, Vol. 31, pp. 329 – 330.

³ Bell, C. (2009). 'Transitional Justice, Interdisciplinarity and the State of the Field or Non - Field', International Journal of Transitional Justice, Vol. 3, pp.7, 12.

⁴ Cited in Arthur, 2009: pp. 327, 333.

⁵ Bell, 2009: 9; Arthur, 2009: pp. 353.

⁶ Bell, 2009: pp. 18.

⁷ Arthur, 2009: pp. 359, 360.

⁸ EC, 2015, pp. 6, 10.

⁹ Sen, A. (2008). 'Violence, Identity and Poverty'. Journal of Peace Research, Vol. 45 (5), pp 7, 8, 12.

¹⁰ Parlevliet, M. (2010). 'Rethinking Conflict Transformation from a Human Rights Perspective'. Berghof Handbook Dialogue, No. 9, pp 16, 18 – 19.

¹¹ Muvungi, I. (2009). 'Sitting on Powder Kegs: Socioeconomic Rights in Transitional Societies'. International Journal of Transitional Justice, Vol. 3, pp. 165.

¹² Cited in Nagy R. (2008). 'Transitional Justice as Global Project: Critical Reflections'. Third World Quarterly, Vol. 29 (2), pp.277.

¹³ Arthur, 2009: 362.

¹⁴ Nkiwane T.C. (2001). 'Africa and International Relations: Regional Lessons for a Global Discourse', International Political Science Review, Vol. 22 (3), pp. 284, 286.

¹⁵ See for instance Murithi, T. (2012). 'Africa's Relations with the ICC: A Need for Reorientation', Perspectives: Political Analysis and Commentary from Africa, vol. 1, pp.26; Muvungi 2007: 167 – 168.

¹⁶ Nagy, 2008: 285.

¹⁷ EC, 2015, pp. 11.

¹⁸ EC, 2015, pp. 17, 20.

¹⁹ Galtung J. (2001). 'After Violence, Reconstruction, Reconciliation and Resolution: Coping with Visible and Invisible Effects of War and Violence' in Abu – Nimer M. (ed.), *Reconciliation, Justice, and Coexistence: Theory and Practice*, Lanham M.A.: Lexington Books, pp. 6; Short, D. (2005). 'Reconciliation and the Problem of Internal Colonialism'. *Journal of Intercultural Studies*, Vol. 26 (3), pp.269; Pankhurst, D. (1999). 'Issues of Justice and Reconciliation in Complex Political Emergencies: Conceptualizing Reconciliation, Justice and Peace'. *Third World Quarterly*, Vol. 20 (1), pp. 252.

²⁰ Vernon R., (2003), 'Against Restitution', *Political Studies*, Vol. 51, pp. 549; Spinner – Halev J., (2007), 'From Historical to Enduring Injustice', *Political Theory*, vol. 35 (5), PP. 574.

²¹ Arthur, 2009: 356 – 357.

²² Nabudere D.W. (2010). *Ubuntu Philosophy, Memory and Reconciliation* <http://repositories1.lib.utexas.edu/bitstream/handle/2152/4521/3621/pdf>. <downloaded October 22, 2010>, pp. 2 – 3.

²³ Nkiwane, 2001: 284.

²⁴ Bayart J.F., (2000), 'Africa in the World: A History of Extraversion', *African Affairs*, Vol. 99, pp.217.

²⁵ Bayart, 2000: 217.

²⁶ Nkiwane, 2001: 284 – 285.

²⁷ Evans T. (2005). 'International Human Rights Law as Power/Knowledge', *Human Rights Quarterly*, Vol. 27 (3), pp. 1052 – 1053.

²⁸ Cited in Nkiwane, 2001: 279.

²⁹ EC, 2015, pp. 9, 11, 13, 17.

³⁰ EC, 2015, pp. 6, 10.

³¹ EC, 2015, pp. 5.

³² Evans, 2005: 1047, 1048.

Localising war orphans' right to development in the Great Lakes Region: preparing future sustainable peace makers or spoilers?

Jean-Berchmans Nzeyimana

*"A father's bravery and honor can be inherited and reflected by one's descendants
But is it just that criminal identity impacts upon one's family?"*

1. Introduction

The 2015 International Training Program in Human Rights for Development has inspired me in many ways. It has been a pleasure to learn, think, analyze, debate and share with colleagues, scholars and experts from around the world in our common areas of interest: human rights, development and transitional justice. Not only has the program been a wonderful and inspiring training in an international, intercultural and inter-professional environment, it has also provided a small research opportunity. I was able to consult a vast amount of documentation and to write a short paper which will be our living memory.

In the five years that I graduated from the University of Antwerp (international advanced master program in governance and development, IOB) in 2009, I have been working and researching in the area of post-conflict management, more specifically disarmament, demobilization, socio-economic reintegration of former fighters, transitional justice, truth and reconciliation, memory and memorization, etc. This experience has made me familiar with various issues related to the past violent armed conflict in the Great Lakes Region of Africa. In this paper, I would like to focus on one challenge characteristic of this region, namely the localization of Rwandan war orphans' right to development.

My major impression is that conflicts in the Great Lakes Region have persisted because of a lack of transitional justice processes dedicated to dealing with the past (truth telling and reading the same history with the same interpretation), to reparation (including a right to development based approach), and to accessing equitable justice for reconciliation, unity, and sustainable peace building. As a result, authoritative regimes have developed, characterized by bad governance, corruption, nepotism, regionalism and socio-economic horizontal inequality, which fueled cyclical ethnic conflicts between the major ethnic groups, Hutu and Tutsi, in Rwanda (1959 Kayibanda Hutu Revolution, 1994 Tutsi genocide) as well as in Burundi (1972, 1988, 1993, 2015).

The first section of this paper highlights the problem statement and the regional context. The second section defines the war orphans at stake. In the following sections, I will talk of some key transitional justice processes as rights to be guaranteed to war orphans in order to sustain long-term future peace, unity, reconciliation and post-conflict reconstruction and development. The last section is the conclusion.

2. Problem statement and background

In April 2015, I met my graduate students from Hope Africa University of Burundi (Bujumbura), where I teach several courses. They were helplessly wondering what to do and where to go after violent protest broke out against the contested third term mandate of Burundi president Pierre Nkurunziza. These students, who are between 20 and 25 years old, are Rwandan refugees in the

Democratic Republic of the Congo (DRC) and/or in Burundi. Some attend secondary schools and others go to university. They are normally not involved in Burundian conflicts. But due to the fact that they are Rwandan, having the same ethnic identity like Burundians,² and taking into account that the Hutu - Tutsi ethnic cliché has been regionalized since the 1994 Rwanda genocide and the fall of Mobutu (former Zaïre now being the DRC)³, these students were afraid and terrified. Some of them were reported to have been killed by protesters just because of being identified as Hutu Rwandan speaking Kinyarwanda. As the university had to close at that moment, where would they go or what would they do? How do these students perceive their future and how are they perceived in the region? Some would say they are “genociders”, whereas others may conclude they are spies of the Rwandan regime. In each case, the students are in a delicate situation and may develop a sense of guilt.

These students and many other Rwandan young men and women who are refugees in the DRC or Burundi are being referred to as “Interahamwe” (those who have perpetrated genocide in Rwanda in 1994). However, most of this generation did not have anything to do with the 1994 Rwandan genocide. They were either too young or not yet born during this dark period. They grew up in refugee camps in the DRC and in Burundi. They did not enjoy any specific human rights based program dedicated to developing their skills to deal with their past. They do not know anything about their history and about what actually happened to their parents and relatives. They just found themselves in refugee camps in the DRC with all sorts of negative forces on the ground (Mai – Mai, FNL, CNDD – FDD, M23, LRA ...)⁴. They have been labeled with a criminal cliché just because their parents have been generalized to be “genociders”, “Interahamwe”, “criminals”, and “perpetrators”.

In the Great Lakes Region, there have been many cyclical ethnic conflicts, one of which has been the Rwandan genocide of 1994. In this region, there has never been a formal way of knowing the truth of what actually happened in these past misfortunate events. Contradictory texts have been written in view of satisfying this or that interest, and instead of revealing the truth and shedding light on dark periods, these texts have been instruments of hatred, revenge, greed and grievance. Crimes committed against humanity have never been brought to justice. There has never been a commitment to reparation and no formal transitional justice process has been successful. The rule of law has been undermined by corruption and extra judiciary imprisonment and torture. Institutions have always been weak and poor in delivering proper public services. As a consequence, growing horizontal socio-economic inequalities and poverty have been fostering cyclical ethnic conflicts.

This paper attempts to localize war orphans’ right to development in the context of the Great Lakes Region’s process of dealing with the past, living the present, and projecting the future. The purpose is to highlight one of the sources of greed and grievance that fuel the region’s cyclical conflicts. The objectives of this paper include ensuring non-repetition of conflict, sustainable peace building, unity, reconciliation, institution building, good governance, and rule of law, which are essential for socio-economic development.

² Burundi and Rwanda are said to be twin sister countries. A similar language is spoken and the culture is similar.

³ See REYNTJENS, F., *The Great African War. Congo and Regional Geopolitics, 1996-2006*, New York, Cambridge University Press, 2009, 327 p.

⁴ Ibidem. See also REYNTJENS, F., *La guerre des grands lacs. Alliances mouvantes et conflits extraterritoriaux en Afrique centrale*, Paris, L'Harmattan, 1999, 255 p.

3. Who are the war orphans?

War orphans are children who lost one or both parents during and in relation to an armed violent conflict⁵. Although this paper uses “children’s” rights to development as a starting point, war orphans may also be adults. In this paper focusing on transitional justice processes, the concept “war orphan” portrays an image of people whose memory of the past is likely to be stronger than others and whose reparation, truth, and justice are very important for longer peace stability, reconciliation and unity.

The current contested president of Burundi, Pierre Nkurunziza, is one of the 1972 war orphans or “victims” of the Hutu - Tutsi conflict⁶. The current president of Rwanda, Paul Kagame, is another 1959 war orphan or “victim” of this conflict⁷. These two high-level examples of war orphans are currently exercising power over the two tiny Great Lakes countries of Burundi and Rwanda. Do they lead their countries towards a repetition of the history that they have not lived themselves? How do they cope with their untold truth and their memory? What is their contribution towards avoiding any conflict repetition?

Children are affected by conflicts in many different ways, directly or indirectly. Among others, children may lose family members and become unable to access basic services such as health, education, accommodation and food, which may also be interrupted by the conflict. Children may simultaneously be victims, survivors, witnesses, and perpetrators of violations⁸. They may also be orphans of mother, father, or both, due to war circumstances. As long as they are under the age of 18, lawyers would say that they are protected by children’s rights law. Psychologists would say that they are vulnerable from a psychosocial perspective. In matters of transitional justice and peace building, these orphans are key players in dealing with the past, in truth telling, and especially in fostering future sustainable peace and reconciliation. The way they read their history determines the way they live their present and, inevitably, it shapes the way they see and plan their future. This is the future of their nation and their society as they are believed to be the future leaders. And unfortunately, the way they will lead is likely to be hindered by their unforgotten, unjudged and unspoken “truth”.

We can differentiate between various types of war orphans depending on how the war has ended. On the one hand, war may end with a consensus between belligerents. War orphans are then likely to be regarded as equals, with equal opportunities and equal status. Typical examples are found in Liberia, Sierra Leone, and to some extent, South Africa. On the other hand, we may have victory as the end of war. In this situation, which is our case study, there are two categories of war orphans. The first category consists of orphans from the victor’s side. They are the lucky ones, the “brave and hero’s” children. They enjoy all the benefits and carry “the father’s credit of bravery and honor”, together with all the opportunities connected to it such as better education, better health care services, better housing, better scholarship schemes and better employment opportunities.

⁵ My own definition.

⁶ https://en.wikipedia.org/wiki/Pierre_Nkurunziza#Personal_life. When the 1972 conflict occurred under the authoritative regime of Michel Micombero, his father was killed when he was only 8 years old.

⁷ https://en.wikipedia.org/wiki/Paul_Kagame. When the 1959 Hutu revolution occurred under the authoritative regime of Gregoire Kayibanda, he fled to Uganda with the rest of his family, being only 2 years old.

⁸ European Commission, High Representative of the Union for Foreign Affairs and Security Policy, “Joint staff working document: The EU’s Framework on support to transitional justice”, SWD (2015) 157 final, 29 July 2015, discussed at HR4DEV meeting with policy makers and practitioners in Brussels on 7 September 2015.

The second category includes the orphans from the losers or the “victims”; they are the unfortunate ones. Their socio-economic status is not the same as the first category, but it is considerably lower. These orphans are likely to be excluded and discriminated from public opportunities such as good education and scholarships, good employment and good housing. Most of the Rwandan war orphans of this category have sought refuge in the Great Lakes Region (the DRC, Burundi, Tanzania, and Uganda) after the 1994 genocide, where other “negative” forces have been reported to be active such as the Lord Resistance Army (LRA), [Democratic Forces for the Liberation of Rwanda](#) (FDLR), Mouvement du 23 (M23), Front National de Libération, Conseil National pour la Défense de la Démocratie-Front pour la Défense de la Démocratie (CNDD-FDD), General Nkunda, Mai-Mai,⁹ Having lost their parents, being deprived of education and struggling for their survival, these war orphans were potential targets for recruitment by these “negative” forces. Without a human rights based approach towards these orphans, their future, their country’s future and the whole region’s future may be at stake.

4. What is the right to development and why does it matter?

The 1986 UN Declaration on the Right to Development (hereinafter ‘1986 Declaration’) emphasizes the global dimension of rights, recognizing that development is a comprehensive economic, social, cultural and political process. It recalls the right of peoples to self-determination, by virtue of which they have the right freely to determine their political status and to pursue their economic, social and cultural development¹⁰. As most rights are violated during armed conflicts, the right to development is also very often infringed upon even though its legal status is not so strong. The reparation of such a violation highly depends on the nature of the conflict, its termination, and the context of the individuals or groups concerned.

In the case of war ending with a consensus between belligerents, we have seen from experiences from Sierra Leone, South Africa and Liberia that all war orphans get equally involved in development programs specifically set up for them. These include orphanage centers, education centers, health program services, national and international adoption policies and vocational skill training. As mentioned, the various types of orphans then have equal status and receive equal opportunities.

In the context of war victory, in contrast, no steps have been taken in the Great Lakes Region towards the realization of the right to development for the losers’ category of war orphans, as required by the 1986 Declaration. Such steps would include the formulation, adoption and implementation of policy, legislative and other measures at the national and international level, dedicated towards realizing the right to development in favor of all war orphans equally. Most orphans of the “losers’ side” have settled in the region outside of their respective countries, without any policy being in place to realize their right to development: no school, no health care services, no clean water, no opportunities to enhance their potentialities, ... and to guarantee no conflict repetition. Moreover, as indicated above, their settlement in the region is hindered and

⁹ See REYNTJENS, F., *La guerre des grands lacs. Alliances mouvantes et conflits extraterritoriaux en Afrique centrale*, Paris, L'Harmattan, 1999, 255 p.

¹⁰ UN General Assembly, Declaration on the Right to Development, 1986, UN doc. A/RES/41/128 <http://www.un.org/documents/ga/res/41/a41r128.htm>.

compromised by the presence of inter-regional negative forces that can hire and recruit them in military training and “use” them in the mining sector (which finances weaponry purchase)¹¹.

There thus seems to be a difference between the realization of the right to development for orphans from the victors’ side, “the heroes’ orphans”, and for the ones from the “perpetrators’ side” or the losers’ side. So on the one hand, we have “darling” war orphans from the victors’ side who enjoy the benefits of their “father’s bravery” and whose opportunities are widened. In our case study, this concerns war orphans from the Rwanda Patriotic Front (RPF) soldiers who died on the battlefield. On the other hand, we have war orphans from the “victims’ side” or the “losers’ side” who bear the “criminal” identity of their fathers and whose opportunities are limited. In our case study, they are the orphans from the “Interahamwe” and former Rwandan army under President Juvenal Habyarimana.

Today, when we talk of Rwandan refugees in the DRC and in the region, most people think of “Interahamwe”, following the connotation of Rwandans who fled their country after the 1994 genocide. But among them there are people who were at that time not yet born or very young. And after the 1959 Kayibanda Hutu revolution, the current RPF members who were then children or not yet born, were being called “Inyenzi” (cockroaches), refugees in the DRC, Uganda, Tanzania and Burundi.

These differences in naming and portraying one’s identity in relation to politico-historical events go hand in hand with socio-economic treatment and status, especially as regards the opportunities available for the different war orphans. This situation is likely to create horizontal socio-economic inequality, greed and grievances. If the right to development is not enjoyed equally between and among all war orphans, this may give rise to another conflict. This seems to be true in the context of the Great Lakes Region.

5. The right to know the truth

Knowing a different “truth” of what actually happened makes people experience the past differently. Living the past differently makes it hard to write down and to read the same history. And it becomes even harder to build the future together as people look in opposite directions¹². Particularly in low income countries with few livelihood opportunities, unequal sharing of scarce resources and opportunities becomes a huge source of conflict. In the process of post-conflict reconstruction programmes, people fight over keeping, owning or hiding the “truth” “credit” that is used to punish, to impeach, or to discriminate one another. “Truth” becomes then a political tool and instrument which is not sustainable for peace, reconciliation, security and unity because it is not shared and agreed upon among all the stakeholders and belligerents in the conflict. However, it remains a right of a war orphan to know as much as possible the truth of what exactly happened.

Most of the young Rwandan aged now between 20-25 are adolescents eager to know, to discover, to socialize, to realize themselves and to experiment. They dream to live their freedom. Most of them have lost one or both parents due to the 1994 genocide. These young men and women are the future leaders. It is important that these key players for future peace are accompanied in the post-conflict transformation process, through building a constructive memory of the past

¹¹ See class presentation “The role of the exploitation of natural resources in fuelling and prolonging crises in the eastern DRC”, http://www.international-alert.org/sites/default/files/publications/Natural_Resources_Jan_10.pdf.

¹² My own thinking after the input from the HR4DEV course in relation to the Great Lakes Region’s conflict history.

misfortunate events, in order to reconcile in the present and to project a future of prosperity in unity.

This generation reads its history differently, however. On the one hand, there is a cohort that enjoys reading the victor's or the hero's historical "truth" with all the benefits and opportunities connected to it. On the other hand, there is a category of young people who reads the "perpetrators'" historical "truth" with all the consequences attached to it. These two different views of the same unfortunate events make a generation live their pasts differently and probably make the future more vulnerable to the recurrence of conflict.

Without knowing the truth and one's past history, freedom and self-realization become difficult to achieve. The right to development is hindered as A. Sen defines development as freedom¹³.

6. The right to 'transitional' justice

War orphans are important stakeholders in transitional justice processes. They hold a unique view of what happened, and are a crucial constituency for building a more peaceful future. Not to involve them in these processes would fail to comply with the UN Convention on the Rights of the Child that guarantees the right of children to life, survival and development (art. 6), as well as the right to express their view freely in all matters affecting them (art. 12)¹⁴.

People who lose their parents due to conflict related matters live in pain. In most cases, the type of death or the disappearance that occurred in mysterious and harsh conditions make it even harder to live and to reconcile oneself with it. Without prosecutions and trials, survivors suffer to cope with their memories. Without justice done no one can reconcile himself/herself, nor can s/he forget or forgive. It is thus essential that prosecutions and trials are arranged for the crimes committed against humanity in general and against the orphans' parents in particular.

Localizing this point in the context of the Great Lakes Region, we have again our two categories of war orphans who do not have equal access to justice in prosecutions and trials dedicated to crimes against humanity. Whether crimes have been committed before, during or after the 1994 genocide, in Rwanda or in the DRC refugee camps, all are crimes against humanity and should be prosecuted in the same way. Perpetrators and criminals are not only "Interahamwe" and not all "Interahamwe" or their descendants are "genociders" or criminals. Otherwise it becomes a fallacious generalization or a selective justice that may lead to another conflict.

Transitional justice, as a key in realizing peace settlement, reconciliation, unity and rule of law, may thus be hindered by "selective" trials and prosecution. These may strengthen the different perceptions of "heroes" and "criminals", and lead again to future conflicts.

¹³ Inputs from classes: SEN, Amartya K. (1999), *Development As Freedom*, Oxford: Oxford University Press.

¹⁴ The EU for instance supports measures that protect and enable access of children to justice, and their involvement in the work of transitional justice mechanisms in a way that contributes to children's recovery and reintegration and that is in their best interests.

7. Right to reparation

According to REDDRES¹⁵, reparation is "a principle of international law that the breach of an engagement involves an obligation to make reparation in an adequate form... it must, as far as possible, wipe out all the consequences of the illegal act and re-establish the situation which would, in all probability, have existed if that act had not been committed". The right to reparation is a well-established principle of international law. The right is also firmly embodied in international human rights treaties and declarative instruments and has been further refined by the jurisprudence of a large number of international and regional courts, as well as other treaty bodies and complaints mechanisms. In 2005, the UN General Assembly adopted the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law¹⁶ (hereinafter 'Basic Principles and Guidelines'). These Principles constitute a significant contribution to the codification of norms relating to the right to reparation.

International human rights treaties and instruments provide that victims of international crimes have the right to seek and obtain effective remedies for the violation of their rights. The Basic Principles and Guidelines provide that the term "victim" includes those who have individually or collectively suffered harm, and may include the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization¹⁷.

There is sometimes a misconception that reparation is synonymous with compensation. Although compensation is common, other forms of reparation in the process of transitional justice may include restitution, rehabilitation, satisfaction and guarantees of non-repetition. Compensation is understood to include any quantifiable damage resulting from the crime, including "physical or mental harm, including pain, suffering and emotional distress; lost opportunities, including education; material damages and loss of earnings, including loss of earning potential; harm to reputation or dignity; and costs required for legal or expert assistance, medicines and medical services, and psychological and social services". Satisfaction and guarantees of non-repetition include such individual and collective elements as revelation of the truth, public acknowledgment of the facts and acceptance of responsibility, prosecution of the perpetrators, search for the disappeared and identification of remains, the restoration of the dignity of victims through commemoration and other means, activities aimed at remembrance and education and at preventing the recurrence of similar crimes.

The types of reparation appropriate to remedy the harm suffered will differ depending on the individual circumstances, the nature of the conflict and the type of conflict termination. In Rwanda, the types of reparation that have been implemented do not consider all victims alike. While many reparation programmes and projects have been designed and are being implemented in Rwanda in education (scholarship schemes), vocational training, development microfinances and other survival opportunities, there is nothing being done for Rwandan refugees across the region or elsewhere who are still called "Interahamwe". The family of President Juvenal Habyarimana for example still

¹⁵ <http://www.redress.org/what-is-reparation/what-is-reparation#one>.

¹⁶ UN General Assembly, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, 2006, UN Doc. A/RES/60/147, Annex.

¹⁷ Ibid., para 8.

does not know under which circumstances the plane was shot, by whom and for what reason. There is nothing being done to reveal the truth to his orphans. There is no specific reparation program designed for such orphans belonging to the war loser's category. It is necessary to address the political and structural inequalities such as injustice, greed and grievances that could lead to further violations to occur in the future. One of many other ways would be for the government to design programmes to bring these orphans, who are scattered across the region and elsewhere, back home and involve them in post-conflict peacebuilding, in transitional justice processes, and in reconciliation procedures while creating for them equal survival opportunities. This would foster unity and security, reduce horizontal socio-economic inequality, and weaken tensions, greed and grievances between socio-political ethnic segments.

8. Conclusion

After four weeks of intense debate and reflection together with lecturers and colleagues coming from different disciplines and horizons, this paper intended to reflect on the importance of a human rights based approach during transitional justice processes. Different concepts were linked such as human rights (including the right to development), living with the past (right to know the truth), transitional justice (right to justice), and reparation (right to prosperity and sustainable peace for all).

To that end, I used an illustrative case of the Great Lakes Region of Africa where violent ethnic conflicts have become cyclical since the 1960s independence movements. Most of these conflicts resulted from authoritative regimes, nepotism, regionalism, favoritism, clientelism, discrimination, horizontal socio-economic inequalities, and other forms of exclusion from state affairs.

More specifically, the paper used a case study of young men and women who survived the 1994 Rwandan genocide. The purpose was to highlight one of the sources of greed and grievance that fuels the Great Lakes Region's cyclical conflicts. It occurs within innocent war orphans, who are almost unconscious when they grow up, reading, hearing, learning, and living miserably in refugee camps without many survival opportunities. They are not aware of any reason or the "truth" of their story. They force the truth, they construct it with the aid of power hungry and opportunist politicians and they make their own history to be transformed into another violent ethnic conflict. This may explode into conflict after they realize that they have been unjustly mistreated and excluded. When each one has his/her "own" past "truth", he/she will live with it in his/her own "world".

The current and contested presidents of Burundi and Rwanda, Pierre Nkurunziza and Paul Kagame respectively, are good illustrations. The first one is a 1972 Burundian war orphan and the second is an orphan from the 1959 Rwandan Hutu revolution. Both of them were very young at the time that these violent ethnic conflicts left them as orphans. Today they have got their own truth, each one in their own way. They now construct another history through setting up almost the same framework: authoritative governance, corruption, extra judiciary justice, nepotism, exclusion and discrimination, absence of rule of law, human rights crimes ... and both want to stay in power regardless the legal, democratic and constitutional instruments in place.

Considering the above, together with the theories and practices I have learnt during this International Training Program on Human Rights for Development with particular focus on transitional justice, it is regretful to conclude that there remains much to be done in the Great Lakes

Region in order to guarantee non-repetition and non-recurrence of ethnic conflicts. Otherwise one could expect in the near future another episode of conflicts instigated by the children, war orphans of former Rwandan “Interahamwe” in the DRC and/or the children of today’s Burundians who contest the third term of president Nkurunziza, who have both run away from autocratic regimes. Transitional justice processes are essential to sustainable peace, to reconciliation, to unity and security, to good governance and rule of law, to justice, and to economic development. These elements are interlinked and none of them weighs less. However, these processes should be “localized”, i.e. adapted to specific contexts and to the situation of each socio-political group of people. In my case study, war orphans in the Great Lakes Region can be both peace makers and peace spoilers depending on how transitional justice processes and mechanisms address them.

Acknowledgments

I wish to acknowledge my gratitude to the organizing committee of HR4DEV for having proposed me to the VLIR-UOS scholarship. I am indebted to the lecturers for their enriching input and their inspiring expertise in transitional justice concepts and discourses. I was happy to have such a huge exposure to colleagues from different corners of the world. For sure we have established a professional network that will strengthen our various activities back home together with our domestic and foreign partners.

Any ‘Real’ Contributions by Africa to the Development of the Right to Development?

Albab Tesfaye

Article 22 of the African Charter on Human and Peoples’ Rights

1. *All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind.*
2. *States shall have the duty, individually or collectively, to ensure the exercise of the right to development.*

Obiora Chinedu Okafor, A regional perspective: article 22 of the African Charter on Human and Peoples’ Rights

Although other scholars and States have also made invaluable contributions to the “universalization” in our time of the right to development, including through the adoption of the 1986 Declaration and the current efforts at the United Nations to adopt a binding instrument at the international level, the avatar-like character of the African Charter and of the relevant jurisprudence of the African Commission, coupled with the pioneering efforts of African scholars such as Kéba M’Baye, Mohammed Bedjaoui and Georges Abi-Saab and complemented by the politico-legal strivings of many African States have in these cases made the critical difference. The official records of the Third Committee of the General Assembly, where the draft of the Declaration was discussed, reveal the permanent voice and vote of the African States in favour of the Declaration. Without their innovation, commitment and persistence, article 22 of the African Charter would likely not have emerged in its present pioneering form, and the jurisprudence of the African Commission on the right to development would likely not have become as rich and cutting edge as it currently is. Agency, indeed African agency, made the difference in the past, and may do the same in future.¹⁸

Attending the 2015 summer course on Human Rights for Development has been enlightening, in understanding the various aspects of development and the different approaches to it. The programme has particularly allowed me to better appreciate the ‘right to development’ structure that is already in place in the African region, and specifically at the level of the African Commission on Human and Peoples’ Rights (the African Commission), where I work as a Legal Officer. I do come across elements of development in my area of work at the African Commission. I have had the privilege of being part of the legal team that prosecuted a major case on the right to development of an indigenous group in Kenya, before the African Court on Human and Peoples’ Right in November 2014.

The programme has complemented my thoughts and understanding of the right to development and allowed me to better conceptualise it. However, the course has also made me question whether the above quote by *Obiora Chinedu Okafor* holds any truth, and whether the way Africa views and practices the right to development is correct. Is the global “North”

¹⁸ Excerpt from Office of the High Commissioner for Human Rights, *Realising the Right to Development: Essays in Commemoration of 25 Years of the United Nations Declaration on the Right to Development*; Obiora Chinedu Okafor, *A regional perspective: article 22 of the African Charter on Human and Peoples’ Rights*, page 384.

understanding/perspective of the right to development what really matters? Can we not take lessons from the “South”? One can think of this especially in light of the lessons taken from the course which basically aver that the right to development should not be “a top-down exercise”. I put this question forward, because of obvious reasons; Module 1 of the programme seems to have taken a “top-down approach”, which is a bit of a paradox. I believe the programme could have bettered my understanding of the right to development practically, if there was an analysis of the “South” approach, albeit brief, pointing out its weaknesses or strengths, if any. I am in no way contending that the approach of the “South”, in this case Africa, to the right to development is what should be followed globally, but without discussing it, one cannot identify its short-comings and how to improve the *status quo*, or build on what exists.

Below I will highlight the development of the African human rights system as it exists now, some of the major ‘real’ or ‘perceived’ contributions of the African human rights system to international law, with specific focus on the right to development. This paper will endeavour to put points across briefly and not analyse concepts or theories, as the African human rights system nor the right to development in Africa is something that can adequately be addressed in 5, 000 words.

Background

To state the obvious, the African continent is not known for its outstanding human rights record. We all hear of the continuing gross and systemic human rights violations taking place in the continent, its weak governments, dictatorships, rigged elections, failed states, conflicts, impunity, the use of child soldiers, the influx of African migrants trying to reach/reaching Europe, poverty, famine, epidemics, disasters, unconstitutional changes of government, terrorist attacks, etc... Some think of Africa as the breeding-ground of most of what is wrong with the world. African countries are regularly used as case-studies/examples of what should not be done. It makes one wonder, does Africa not have anything positive to offer the rest of the world other than its vast natural resources, and does Africa not have the capacity to share knowledge, understanding, expertise, advancements? If Africa does have the capacity to share these positives, it is not coming out clearly in the international fora.

The African human rights framework is relatively young compared to its elder Inter-American and European counter-parts, with the African Charter on Human and Peoples’ Rights (the African Charter) having been adopted by the Heads of State and Government of the Organisation of African Unity (OAU) in 1981 and only coming into force in 1986. Following the entry into force of the African Charter, its “treaty-body”, the African Commission was established in accordance with Article 30 of the African Charter in 1987.

The adoption of the African Charter, and later the establishment of the African Commission, was a major step in the promotion and protection of human and peoples’ rights in the continent. The process to establish a regional human rights body in Africa actually started decades before the establishment of the African Commission, but there were many hurdles, mostly dictatorial/authoritarian states which were wary of an African human rights monitoring body. As stated above, Africa is still not the easiest continent for a human rights institution to operate in.

Despite such difficulties and many others, the African Charter, which many scholars aver is one of the most progressive human rights instruments in the world, was adopted. The OAU as evidenced in the 1963 OAU Charter was more concerned with issues of territorial integrity, liberation, socio-economic progress, apartheid, unity and solidarity. On the other hand, the African Union (AU),

successor of the OAU, has as its objective the promotion and protection of human and peoples' rights in accordance with the African Charter and other relevant human rights instruments, as well as the promotion of democratic principles and institutions, popular participation and good governance.

Major 'real' or 'perceived' contributions of the African human rights system to international law

The AU is the only regional organisation to have an established framework to respond to instances of unconstitutional changes of government particularly through its African Charter on Democracy, Elections and Governance in Africa. The African Charter on the Rights and Welfare of the Child (the ACRWC) is the first and only regional human rights instrument to address the issue of child soldiers; the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol) "is comprehensive with its inclusion of civil and political rights, economic, social and cultural rights, group rights and, for the first time in an international treaty, health and reproductive rights" and contains innovative provisions that advance women's rights further than any existing legally binding international treaty. The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (the Kampala Convention) is the world's first continental instrument that legally binds governments to protect the rights and wellbeing of people forced to flee their homes by conflict, violence, disasters and human rights abuses.

The AU also recently expanded the jurisdiction of the African Court of Justice on Human and Peoples' Rights (the African Court of Justice and Human Rights) to prosecute 'classic international crimes,' as well as other new crimes, such as unconstitutional changes of government; piracy; terrorism; mercenarism; corruption; money laundering; trafficking in persons, drugs, and hazardous wastes; illicit exploitation of natural resources; and the crime of aggression. This will make the African Court of Justice and Human Rights the first international/regional Court with jurisdiction over most of these crimes. Further, the Protocol on Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights includes a specific provision on corporate responsibility - legal persons, which is another novelty.

However, the biggest disappointment of this Amended Protocol is its immunity clause, which prohibits prosecution of sitting Heads of States and senior officials. This could be considered as an instance in which the African region has regressed from international standards. The issue of immunity and the Protocol in general are well beyond the scope of this paper and I will therefore not elaborate on the issue.

Nevertheless, if utilised properly, the inclusion of crimes such as corruption, money laundering, illicit exploitation of natural resources and the crime of aggression as international crimes for which perpetrators can be prosecuted is a progressive step in the realm of international justice in general, and more so in the area of transitional justice and development. Furthermore, the criminal responsibility of corporate/legal persons is a step forward, although it will be interesting to see how this provision would be applied.

The right to development – the African context

The right to development is intrinsically incorporated into the architecture of the African Union, its instruments and its Organs. The mainstreaming of the right to development into the African Union system is evidenced below:

The African Charter on Human and Peoples' Rights

Article 22(1) of the African Charter enshrines the right of all peoples to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind. Sub-article 2 provides that States shall have the duty, individually or collectively, to ensure the exercise of the right to development.

African Charter on the Rights and Welfare of the Child (ACRWC)

Amongst the four (4) founding principles of the ACRWC is the survival and development of the child. Several provisions in this ACRWC reiterate the duty to ensure the development of the child.

African Youth Charter

This instrument interestingly provides 'the family' as the most basic social institution, and the holder of the right to full protection and support of the state for its establishment and development.¹⁹ Article 10 further deals with the right to social, economic, political and cultural development of young persons; Article 14 with education and skills development; Article 15 with sustainable livelihoods and youth employment; and Article 19 with sustainable development and protection of the environment. Even more interesting, the Charter creates obligations on the youth themselves, stating that young persons have responsibilities towards family, society state and the international community, and that they have the duty to become custodians of their own development. Finally, the Charter imposes obligations on the African Union Commission, which is the Secretariat of the AU, to ensure that State Parties respect the commitments made in the Charter.²⁰

African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol)

Unlike CEDAW, the Maputo Protocol includes an extensive provision on women's right to sustainable development, including requesting State Parties to take appropriate measures to introduce gender perspective in development planning procedures, ensuring participation of women at all levels in the conceptualisation, decision-making, implementation and evaluation of development policies and programmes.

African Charter on Democracy, Elections and Governance

Among its objectives is the promotion of gender balance and equality in the governance and development process, as well as effective participation of citizens in democratic and development processes and in the governance of public affairs.²¹

African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (the Kampala Convention)

Article 10 of the Kampala Convention provides for the State obligation to protect persons displaced as a result of development projects, including the State obligation to carry out a socio-economic and environmental impact assessment of the project prior to its undertaking, with full information and consultation of persons likely to be displaced.

¹⁹ Article 8(1) of the African Youth Charter.

²⁰ As above, Article 28.

²¹ Articles 2(11) and 3(7)(7) African Charter on Democracy, Elections and Governance.

The African Union Convention on Preventing and Combatting Corruption

This instrument calls on State Parties to promote social justice to ensure balanced socio-economic development, which in a way links development and transitional justice, according to some of our lessons on transitional justice.

Grand Bay (Mauritius) Declaration and Plan of Action

It acknowledges the observance of human rights as a key tool for sustainable development, and its interdependence with good governance, the rule of law and democracy.

Conference on Security, Stability, Development and Co-operation in Africa (CSSDCA) Solemn Declaration

It underscores democracy, good governance, respect for human rights and the rule of law as prerequisites for the security, stability and development of the continent. It further notes that popular participation, equal opportunity, transparency in public policymaking and partnership between government and peoples are necessary for the achievement of development

Declaration on the Principles Governing Democratic Elections in Africa

It recognises that regular elections constitute a key element of the democratisation process and, therefore, are essential ingredients for good governance, the rule of law, the maintenance and promotion of peace, security, stability and development.

Resolution on Illicit Capital Flight from Africa

It recognises that illicit capital flight undermines the capacity of State Parties to implement the African Charter and to attain the Millennium Development Goals.

New Partnership for Africa's Development (NEPAD)

NEPAD is a pledge by African leaders to consolidate democracy, to promote peace and stability, sound economic management and people-centred development and to hold each other accountable through the African Peer Review Mechanism (APRM), which is a mutually agreed instrument voluntarily, acceded to by African States as a self-monitoring mechanism. The primary purpose of APRM is to foster the adoption of policies, standards and practices that lead to political stability, high economic growth, sustainable development and accelerated sub-regional and continental economic integration through sharing of experiences and reinforcement of successful and best practice, including identifying deficiencies, and assessing the needs for capacity building of participating countries.

NEPAD is noteworthy in Africa's stride to fulfil the right to development. The NEPAD document provides that 'Africans are appealing neither for the further entrenchment of dependency through aid, nor for marginal concessions.' In this document, Africans declare that they will no longer allow themselves to be conditioned by circumstance, to determine their own destiny, and they ultimately pledge to take responsibility for their own development. This point comes out clearly under the *Declaration on Democracy, Political, Economic and Corporate Governance*, which provides that "We reaffirm our conviction that the development of Africa is ultimately the responsibility of Africans themselves. Africa's development begins with the quality of its human resources."

The document presents institutional reform focusing on administrative and civil services, strengthening parliamentary oversight, promoting participatory decision-making, adopting effective measures to combat corruption and embezzlement, and undertaking judicial reforms as one of the conditions for attaining sustainable development.

Although the effectiveness of this mechanism is questioned by many, scholars argue that every country reviewed has seen at least some national debate which would perhaps not have taken place, and significant weaknesses have also been identified.

Adjudicating the Right to Development at the African Commission

The jurisprudence of the African Commission is constantly evolving taking into account the dynamic nature of human and peoples' rights and also considering the peculiarities of the African context, but emphasising that interpretations should not fall below international/regional standards. Unlike the doubts in the international arena, Article 22 of the African Charter is very clear on who the right holders of the right to development are, "peoples".

The salient features of the African Charter includes its recognition of the indivisibility of all human rights, be it civil and political or socio-economic; it does not allow any derogation; it recognises group/peoples' rights, and imposes duties both on states and individuals. Further, the African Commission has held that all rights in the Charter, even the 'implicit rights' are justiciable, there is no hierarchy of rights. Therefore, the right to development is justiciable.

The Commission refers to the United Nations Declaration on the Right to Development, the jurisprudence of the Inter-American human rights system,²² the United Nations Independent Expert, the United Nations Working Group on Indigenous Populations, etc.

Below are a few cases relating to the right to development, adjudicated before the African Commission. I will then proceed to briefly reflect on the prominent cases.

- *Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v Kenya*
- *Sudan Human Rights Organisation & Centre on Housing Rights and Evictions (COHRE) v Sudan;*
- *Kevin Mgwanga Gunme, et al. v Cameroon;*
- *Democratic Republic of Congo v Burundi, Rwanda, Uganda;*
- *Application 006/12 – the African Commission on Human and Peoples' Rights v. the Republic of Kenya*, which is pending before the African Court

*Communication 276 / 2003 – Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v. Kenya*²³

In this Communication, the African Commission developed a two part test for the right to development, as enshrined in Article 22 of the African Charter, holding that it 'is both *constitutive* and *instrumental*, or useful as both a means and an end.' This quite differs from one of the lectures we had, which seemed to conclude that the right to development is all about participation in the process. The Commission stated that:

A violation of either the procedural or substantive element constitutes a violation of the right to development. Fulfilling only one of the two prongs will not satisfy the right to development. The African Commission notes the Complainants' arguments that recognizing the right to development requires fulfilling five main criteria: it must be equitable, non-discriminatory,

²² The American Convention on Human Rights does not have an equivalent of Article 21 of the African Charter on right to free disposal of natural resources, nor Article 22 on the right to development, it reads the right to natural resources into the right to property in the American Convention on Human Rights.

²³ Paragraph 277, Communication 276 / 2003 – Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v. Kenya.

participatory, accountable, and transparent, with equity and choice as important, over-arching themes in the right to development.

The Commission held that the failure to guarantee effective participation and to guarantee a reasonable share in the profits of the game reserve (or other adequate forms of compensation) also extends to a violation of the right to development.

And in relation to 'peoples' and 'indigenous community', the Commission stated that:

The African Commission, nevertheless, notes that while the terms "peoples" and "indigenous community" arouse emotive debates, some marginalized and vulnerable groups in Africa are suffering from particular problems. It is aware that many of these groups have not been accommodated by dominating development paradigms and in many cases they are being victimized by mainstream development policies and thinking and their basic human rights violated. The African Commission is also aware that indigenous peoples have, due to past and ongoing processes, become marginalized in their own country and they need recognition and protection of their basic human rights and fundamental freedoms.²⁴

Under paragraph 298 of its decision, the African Commission provides that:

The African Commission is of the view that the respondent state bears the burden for creating conditions favourable to a people's development. It is certainly not the responsibility of the Endorois themselves to find alternate places to graze their cattle or partake in religious ceremonies. The respondent state, instead, is obligated to ensure that the Endorois are not left out of the development process or benefits. The African Commission agrees that the failure to provide adequate compensation and benefits, or provide suitable land for grazing indicates that the respondent state did not adequately provide for the Endorois in the development process. It finds against the respondent state that the Endorois community has suffered a violation of article 22 of the Charter.

The African Commission is working with the Government of Kenya and the Complainants to ensure full implementation of the Endorois Decision, which has not been an easy task. The African Commission had to pass a resolution calling on the Government of Kenya to implement the decision and organise a Workshop in Kenya to meet all stakeholders. Most recently, during the 57th Ordinary Session of the African Commission, held from 4 to 18 November 2015, representatives of the Endorois community organised a panel discussion regarding the status of implementation of the decision. From the discussions, it was apparent that the African Commission's decision is yet to be fully implemented.

Communication 266/03 - Gunme and Others v. Cameroon

In this Communication (para 176), the Commission deduced that peoples' rights are equally important to individual rights, and that "[t]hey deserve, and must be given protection. The minimum that can be said of peoples' rights is that each member of the group carries with him/her the individual rights into the group, on top of what the group enjoys collectively, i.e. common rights which benefit the community such as the right to development, peace, security, a healthy environment, self-determination, and the right to equitable share of their resources."

Communication 227/99 – Democratic Republic of Congo v. Burundi, Rwanda, Uganda

In this Communication, the African Commission found the illegal exploitation/looting of the natural resources of the complainant State in contravention of Article 21 of the African Charter, which

²⁴ As above, paragraph 148.

provides: “All peoples shall freely dispose of their wealth and natural resources. This right shall be exercised in the exclusive interest of the people. In no case shall a people be deprived of it... (2) States Parties to the present Charter shall individually and collectively exercise the right to free disposal of their wealth and natural resources with a view to strengthening African Unity and solidarity.”²⁵

The Commission further stated that “[t]he deprivation of the right of the people of the Democratic Republic of Congo, in this case, to freely dispose of their wealth and natural resources, has also occasioned another violation – their right to their economic, social and cultural development and of the general duty of States to individually or collectively ensure the exercise of the right to development, guaranteed under Article 22 of the African Charter.”²⁶

This case is particularly noteworthy because it was the first successful inter-state complaint, and because three (3) states, Burundi, Rwanda and Uganda were found in violation of DRC’s right to development.

Application 006/12 – the African Commission on Human and Peoples’ Rights v. the Republic of Kenya, which is pending before the African Court

The Application emanates from *Communication 381/09 – Centre for Minority Rights Development – Kenya and Minority Rights Group International (on behalf of the Ogiek Community of the Mau Forest) V. Kenya*, which was before the African Commission. The African Commission referred the case to the African Court in 2012.

The Commission filed the Application on behalf of the Ogiek of the Mau Forest, an indigenous community in the Republic of Kenya. The Ogiek allege that they have lived since time immemorial in the Mau Forest in Kenya’s Rift Valley, relying on it for food, shelter and identity, and, therefore, that their very survival depends on it. They also allege that they have been routinely subjected to arbitrary forced evictions from their ancestral land in the Mau Forest without consultation or compensation, and that this has had a detrimental impact on the Ogiek’s pursuit of their traditional lifestyle, religious and cultural life, access to natural resources on their land and, more generally, access to education, health services and justice; all of which are safeguarded under the African Charter.²⁷

The novelty of this Application lies in that it demonstrates the practical implementation of the complementary protective mandates of the Commission and the Court, in addition to being the first case of the African Court on indigenous peoples’ *rights to development*, as well as other related rights under the African Charter.

Conclusion

The above brief highlights some of the ways the African human rights system deals with the right to development, in theory and in practice. One may then be able to evaluate whether it would have been worthwhile to have at least one African speaker or one case-study specific to Africa. I reiterate my statement that I am not purporting the perfect use of the right to development by Africa,

²⁵ Paragraph 94, Communication 227/99 – Democratic Republic of Congo v. Burundi, Rwanda, Uganda.

²⁶ As above, paragraph 95.

²⁷ See Press Release on the upcoming Public Hearing of Application 006/2012 – African Commission on Human and Peoples’ Rights v. The Republic of Kenya, from 27 to 28 November 2014, in Addis Ababa, Ethiopia, available at <http://www.achpr.org/press/2014/11/d235/>.

certainly it has its weaknesses, but also its strengths. However, a critical analysis of this may have allowed all of us to learn from it.

To conclude, one can argue that because of the multi-faceted issues that it is confronted with, the African continent has developed dynamic/unique solutions, or as commonly put forward, “African solutions to African problems.” The continent has indeed taken bold steps to address some of the problems it is faced with, by putting in place impressive legal and institutional frameworks. However, political will of African leaders to fully utilise the existing frameworks is lacking, and until such time that those in power are willing to put to work the mechanisms they have put in place, Africa will remain a case-study of what is wrong in the world.

Linking Human Rights and Rural Development: Perspectives on the integration of Rights-Based Approaches in the work of the NGO *Broederlijk Delen* and its country program in Haiti.

Pieter Thys

Introduction

In this paper, I aim to present some critical reflections on the integration of *Human Rights* and *Human Rights-Based Approaches to Development* (HRBA) in the work of the Belgian NGO *Broederlijk Delen* in general and in the context of its country program in Haiti specifically. As I am currently working for and with *Broederlijk Delen* in Haiti, supporting the work of the local human rights partners, the HR4DEV course offered a great opportunity to take a step back from the work in the field and acquire new learning and insights on human rights and development from a broad range of disciplines and fields. Moreover, as *Broederlijk Delen* is currently reflecting on how to better link its development work in rural areas of Haiti with the work of its national human rights partners in the capital, this is an opportunity to also propose some possibilities for the *Broederlijk Delen*'s future work as an organization and for myself as a development worker engaged with Haitian human rights organizations.

About *Broederlijk Delen*

Broederlijk Delen is a Flemish development organization that works towards a dignified life for rural communities in Africa and South America. Thematically, *Broederlijk Delen* focuses on rural development, with its main components being the right to food, sustainable natural resource management, and peace and democracy²⁸. It is important to emphasize that *Broederlijk Delen* does not implement its own programs in the Global South but rather supports initiatives of local civil society organizations.

Human Rights-Based Approaches to Development in the Policy Framework of *Broederlijk Delen*

Before focusing specifically on the country program of *Broederlijk Delen* in Haiti, I'd like to reflect on the way in which human rights are integrated in *Broederlijk Delen*'s organizational thematic, methodological and strategic policy choices. Interestingly, the question whether or not to include a specific thematic focus on human rights and whether to continue existing collaborations with human rights organizations in the Global South was the object of internal debate in the preparation for the organization's 2014-2016 programs. Traditionally supporting a rather broad range of local civil society initiatives in the Global South, *Broederlijk Delen* gradually developed a specific focus on support to family farming and agro-ecology as an alternative approach to development. This raised the question as to what role human rights organizations and human rights advocacy could or should play in *Broederlijk Delen*'s programs in the Global South. Given that *Broederlijk Delen* works in countries and regions that are affected by conflicts and gross human rights violations, *Broederlijk Delen* opted to include *peace and democracy* as a thematic focus of its work and adopted a *Rights-Based Approach to Development* (HRBAD) as part of its methodological policy. It seems fair to say that *Broederlijk Delen* has always been conscious of the role human rights play in development contexts, but this aspect has traditionally been translated as specific support to human rights organizations in contexts of conflict and gross violations of civil and political rights, rather than as

²⁸ <http://www.broederlijkdelen.be/wat-we-doen>

the consistent adoption of a *Rights-Based Approach* in all development programming. To fully embrace HRBAD would therefore seem to require a rather far-reaching organizational change.

In a series of policy documents adopted by *Broederlijk Delen* in the period leading up to the current program cycle 2014-2016, the organization confirms having adopted a *Human Rights-Based Approach to Development* as a key component of its *methodological policy framework*²⁹. The policy document guiding the elaboration of country programs in the Global South by the Department of International Programs (DIP) states: "*RBA examines the relationship between 'right holders' and 'duty bearers' of civil, socio-economic and collective rights. (...). RBA is a way of looking at development issues, offers a vision to development aid in which we are guided by principles that can be applied in different situations and interventions*"³⁰. The principles referred to above are summarized in the acronym PANTHER: participation, accountability, non-discrimination, transparency, human dignity, empowerment and rule of law³¹. *Broederlijk Delen* has added the aspect of gender to this list, given the essential and complex role of women in rural development and persisting systems of marginalization and exclusion of women in local contexts. Interestingly, *Broederlijk Delen's* policy framework does *not* identify the realization of human rights as the main development goal of the organization. In fact, the thematic focus of *Broederlijk Delen* is "to *achieve social changes that aim at lasting rural development*". The emphasis seems to be more on the integration of certain key human rights principles in the process of program development and implementation than on the realization of human rights as a development goal as such. Some of these principles – such as participation and empowerment – are in fact also well established in development discourse, which probably helped in this paradigm's adoption. There is definitely not a dominant emphasis on legal and legalistic perspectives on human rights and development. Furthermore, *Broederlijk Delen* explicitly refers to the need for HRBAD to grow gradually from and adapt to experiences and realities from the field, policy choices, thematic priorities, available resources, practices and examples of other organizations, etc.³²

I would like to argue that *Broederlijk Delen's* integration of human rights principles in its development work is less the result of the rigorous application of and orientation towards the HRBAD paradigm than an interplay between existing practices, new thematic choices, internal organizational reflections and consultations, and the realities of the programs and partnerships on the field in the Global South.

Alternative Approaches to linking Human Rights and Development

The HR4DEV summer course has raised my awareness on the existence of *different* conceptualizations on the link between human rights and development. As Wouter Vandenhoe and Paul Gready (2014) point out, "*the relationship between human rights and development has been framed in multiple ways*"³³. They distinguish between three major conceptualizations of this relationship: the right to development as a human right; transnational human rights obligations; and human rights-based approaches to development³⁴. They consider the former two

²⁹ Broederlijk Delen, *Renewal of the thematic, methodological and strategic policy of the DIP. Main Focus/considerations three-year program 2014-2016*.

³⁰ Ibid. p7

³¹ Broederlijk Delen, *Inleiding tot de rechtenbenadering van ontwikkeling als centrale benadering van de partnerwerking van Broederlijk Delen*. 2011.

³² Ibid.

³³ W. Vandenhoe. & P. Gready. *Failures and Successes of Human Rights-Based Approaches to Development: Towards a Change of Perspective*. Nordic Journal of Human Rights, 32:4, 291-311.

³⁴ Ibid.

conceptualizations to represent “a rather fundamental overhaul of human rights thinking, as they introduce new substantive rights and corresponding obligations and, even more importantly, new duty bearers”³⁵. The latter, HRBAD, is more practical and perhaps less ambitious in the sense that *Human Rights-Based Approaches to Development* accept the existing human rights framework and aim to introduce its principles in development thinking and practice³⁶. I would like to suggest that *Broederlijk Delen* is in fact increasingly moving towards alternative approaches to linking human rights and development in its work, focusing on new types of rights, obligations and duty bearers that do not always fall within the more firmly established human rights framework. This is to no small degree the result of consultations with its partner organizations and the realities confronting the rural communities in the Global South.

In January 2015, *Broederlijk Delen* facilitated a conference in Ouagadougou, Burkina Faso, where it consulted with its partner organizations from the Global South – predominantly from Africa, but also from Latin America and the Caribbean – in order to produce a policy document on family farming as an alternative practice in the light of the dominant development paradigm of agribusiness and extractive industries. The documentation of this conference reflects the challenges faced by rural communities in the Global South with regard to preserving and promoting family farming amid the threats of displacement by agribusiness, free market capitalism and natural resource exploitation³⁷. Interestingly, the emphasis is squarely on the need for social mobilization and struggle and on the defense of collective entitlements such as access and community control over natural resources (land, water, and seeds), the right to culture, and the right to food. Given the strong emphasis on the right of communities to determine their own model of development in this consultation, I see possible connections with the conceptualization of the right to development as a human right. The Declaration of the Right to Development (1986) puts human beings in the center of the development process, both as agents and as beneficiaries³⁸. Although it may currently not have legally binding instruments to make it an enforceable right, the right to development is conceptually linked to many of the issues advanced by *Broederlijk Delen*’s partner organizations in the Global South.

Latin-American partners of *Broederlijk Delen* - especially in those countries that harbor an important and more or less organized indigenous population - inspired *Broederlijk Delen*’s discourse and reflection on a holistic model of development that embraces the environment instead of ‘commodifying’ it. These partners and their allies (local, national and international environmental and indigenous movements) offer a deep philosophical anchor necessary to create societal change that will better support the natural world and human societies than our current system. They translate this into what is sometimes called “the fourth generation of human rights”, being the rights of the environment, or, as stated by the Bolivian and the Ecuadorian Constitutions, “the rights of Mother Nature”. The international seminar celebrated in Lima, Peru, was a key moment for *Broederlijk Delen* to crystalize its own discourse³⁹ on the underlying “paradigm shift” and spread it to the other countries within the international programs department (linking it to the agro ecological approach of farming) and the discourse of the education and communication department

³⁵ Ibid.

³⁶ Ibid.

³⁷ Broederlijk Delen. *Conférence. Un système alimentaire basé sur l’agriculture familiale pour une vie digne pour tous. Défi et Enjeux*. Ouagadougou, Burkina Faso. 26-28 Janvier 2015.

³⁸ <http://www.un.org/documents/ga/res/41/a41r128.htm>

³⁹ Broederlijk Delen & PDTG, *Alternativas para la vida, más allá del desarrollo. Documento de Sistematización Encuentro en Lima, del 25 al 29 de agosto de 2013*. Lima, Peru. 2014.

on alternative development, although the idea of Nature's Rights as such is still mostly limited to in the Andean and Guatemalan country programs.

Since rural communities in the Global South increasingly face threats from the encroachment from agribusiness, extractive industries and other actors, *Broederlijk Delen* and its partner organizations are also increasingly active in seeking accountability for transnational corporations, International Financial Institutions (IFI's) and foreign governments for adverse effects of their operations on local communities in the Global South. In fact, *Broederlijk Delen's* fundraising and advocacy campaigns for the years 2015 and 2016 focus entirely on lobbying against the unchecked expansion of extractive industries and the need for tougher control and regulations. In that sense, the emerging paradigm of transnational human right obligations is particularly relevant to *Broederlijk Delen's* work and will arguably still gain importance in the near future.

Some intermediary conclusions

Before turning to the country program of *Broederlijk Delen* in Haiti, I would like to propose some intermediary conclusions with regard to the integration of human rights and development in the policies and practices of *Broederlijk Delen* as an organization. First, *Broederlijk Delen* has formally adopted HRBAD as a key methodological component of its development work. I have argued that the familiarity of *Broederlijk Delen* with many of the principles of HRBAD has contributed to the adoption of this paradigm. However, the adoption of HRBAD's elements that are new to the organization is done in a flexible and gradual manner and has not yet led the organization to fully embrace all implications of HRBAD and radically change the way the organization implements its development programs. Secondly, alternative conceptualizations of the link between human rights and development seem to present themselves as opportunities for the organization. I mentioned the emergence of new types of rights such as the right to development, and new types of obligations and duty bearers through the paradigm of transnational human rights obligations. These approaches seem to emerge from the concrete realities of working in the field and from the perspectives of the partner organizations and rural communities in the Global South. They may also offer ways of linking human rights particularly to rural development issues.

In the second part of this paper, I wish to reflect more concretely on the country program of *Broederlijk Delen* in Haiti where I am working.

The Country Program of *Broederlijk Delen* in Haiti

The context: Haiti then and now

Ayiti, se tè glise / Haiti is quicksand
(Haitian proverb)

Haiti is, in many ways, a country unlike any other. In the period between 1791 and 1804, a series of organized and successful slave revolts violently ended French colonial rule in the colony of Saint-Domingue and resulted in the establishment of the first free black republic in the world. Haiti thus gained its independence considerably earlier than other countries in the western hemisphere, and the radical and uncompromising nature of the Haitian revolution sent a shockwave through the globe, not in the least in the United States where, despite lofty tributes to the ideals of freedom and equality in its declaration of independence, slavery was to remain the driving force of its southern

plantation economy for decades to come. In the period that followed its hard-won independence, Haiti had to fend off multiple attacks from colonial powers and grapple with numerous external attempts to stifle its growth as a nation. Some of the measures taken by colonial powers against Haiti, such as the imposition of the payment of an indemnity to France for the loss of its colony, had long-lasting impacts on the country's political and economic development. Throughout its history, Haiti has swung back and forth between times of relative stability, periods of social and political turmoil, and moments of external pressure and intervention.

Working in Haiti today surely is challenging. Often labelled the poorest country in the western hemisphere, Haiti bears the scars of a history riddled with *coup d'états* and dictatorships, external military interventions, and the impact of natural calamities such as the devastating earthquake of January 12, 2010. Haiti is also a country where the legacy and impact of the development enterprise have been particularly uneven and controversial. A lack of strong, democratic leadership and governance has allowed the often conflicting and volatile interests of foreign governments and donor agencies to determine the agenda, with a resulting lack of local ownership, participation and sustainability in many of the development efforts. Haitian civil society organizations, numerous and diverse, have grown particularly weary of the presence and influence of foreign actors in Haiti. Foreign NGOs, such as *Broederlijk Delen*, often have to navigate a minefield of sensitivities and apprehensions when working with Haitian civil society organizations. The mixture of financial dependence on but covert resistance to working together with foreign donors tends to complicate partnerships. My own integration as a development worker with the partner organizations likewise took a considerable amount of time and effort.

Broederlijk Delen in Haiti

Broederlijk Delen has been active in Haiti since the 1960's. Having traditionally supported many and rather diverse civil society initiatives, *Broederlijk Delen* has in recent years adopted a more programmatic approach to its development work, with the explicit integration of a (Human) Rights-Based Approach to development in the process of program formulation and implementation⁴⁰. The current country program (2014-2016) in Haiti consists of two components: a rural development program aiming to improve the production, storage and marketing of the agricultural products of small-scale farmers, and a national program focusing on the defense of the rights of the Haitian population to food and to a healthy environment. Although still largely implemented as two separate programs, it is *Broederlijk Delen's* explicit intention to bring 'human rights' and 'rural development' closer together by linking partners working directly with farmer households to partners who are engaged in human rights advocacy at the national and international level. My own role in the program consists of organizational capacity building for the human rights partners and give support to the collaboration between them in the framework of the country program.

Broederlijk Delen's local partners in Haiti

Broederlijk Delen partnered with three Haitian human rights organizations, namely the *National Human Rights Defense Network*⁴¹, the *National Episcopal Commission Justice and Peace*⁴² and the *Platform of Haitian Human Rights Organizations*⁴³. The three organizations have fairly distinct

⁴⁰ I deliberately put the qualifier 'human' between brackets, since *Broederlijk Delen's* policy documents speak of 'rights based approach' rather than 'human rights based approach'. However, the policy documents seem to suggest that these are synonymous for the organization...

⁴¹ Réseau National de Défense de Droits Humains (RNDDH)

⁴² Commission Episcopale Nationale Justice et Paix (CE-JILAP)

⁴³ Plate-forme Haïtienne des Organisations des Droits Humains (POHDH)

organizational identities. The *National Human Rights Defense Network* is strongly oriented towards human rights education for people's organizations, schools and government institutions, monitoring of government institutions such as prisons, courts and police stations, and the publication of observation reports on civil and political rights. The *National Episcopal Commission Justice and Peace* is a nationwide network of parish-based human rights commissions which consist predominantly of volunteers, and are active in human rights education and the observation of human rights violations throughout the country. The latter organization, the Platform of Haitian Human Rights Organizations, is a national platform of which the former two are members.

The rural partners of *Broederlijk Delen* are equally diverse, but tend to combine technical assistance to farmers with support to the organizational development of community-based organizations and cooperatives. Haitian rural NGOs are confronted with human rights related issues in their work with farmers, such as displacement of families by government projects, environmental degradation due to lack of natural resources management, lack of access to water and food... However, they generally do not tend to consider these issues from a rights-based perspective.

Linking Human Rights and Rural Development

Linking the work of national human rights organizations to that of rural development organizations has proven to be challenging. Traditionally, Haitian human rights organizations are oriented more towards the defense of civil and political rights than towards enforcing social, economic, cultural and collective rights for the population. Rural development NGOs, in turn, are strongly oriented towards technical support and service delivery and do not tend to mobilize their beneficiaries to claim rights.

Our attempts to bridge the gap between the work of national human rights organizations and that of rural development organizations in Haiti has had mixed results. The framework for the country program of *Broederlijk Delen* more or less assumes that rural development organizations are in a favorable position of proximity to the rural communities to understand the obstacles and threats to the enjoyment of their rights, whereas national human rights organizations are well-positioned to translate this knowledge and experience from the field into national advocacy and lobbying with the Haitian government to better respect, protect and realize these rights. It seemed therefore logical that the integration of human rights and rural development could strengthen the struggle for a dignified life for rural communities. Furthermore, rural development organizations could benefit from broadening their predominantly technical and service oriented approaches towards a more right-oriented perspective, whereas human rights organizations could better ground their advocacy in actual experiences of communities if they worked closer with rural communities and community-based organizations.

Possibilities for Linking Human Rights and Rural Development through HRBAD

Similar to the way in which *Broederlijk Delen* was able to establish links between its development work and human rights through the adoption of (some of the) HRBAD principles, I believe that a similar emphasis on key principles of HRBAD can strengthen the link between human rights and rural development organizations in *Broederlijk Delen's* country program in Haiti. I also believe, however, that perhaps the self-evidence of these links is too easily assumed and that HRBAD principles will have to be more intensely grounded in actual experiences and practices before a meaningful connection between human rights and rural development can be established. Particularly the assumption that human rights organizations are well equipped to introduce human

rights-based approaches to the work of rural development organizations may not pass the scrutiny test.

I propose to look into some of the experiences and challenges with regard to the HRBAD integration in the country program in Haiti. I will do so by considering some of the human rights principles summarized in the acronym PANTHER. I believe that this approach may offer some insights on how human rights and rural development could – or perhaps should – be linked. I will focus on participation, accountability, empowerment and the rule of law.

Participation

Meaningful participation of disadvantaged groups in the struggle for social change is an essential element of human rights advocacy. The situation of disadvantaged groups is best understood from the perspective of those whose rights are denied or violated, and their active participation in claiming their rights can be a great force for social change. As Yash Ghai argues, “*the language of rights makes people conscious of both their oppression and the possibility of change*”⁴⁴. In the Haitian context, however, human rights language and advocacy tends to be the domain of specialized, often project-oriented and foreign-funded NGOs who do not always sufficiently implicate disadvantaged groups themselves nor support a broader process of social mobilization for human rights. In the context of the *Broederlijk Delen* program in Haiti, however, efforts are being done by the partner organizations to give a voice to disadvantaged groups through participatory observation and analysis activities, departmental and local fora on the local human rights situation, and the use of local media in advocacy. These activities bring human rights organizations closer to the realities in the rural communities. There is still much that can be done, however, to ensure full, active and meaningful participation of disadvantaged groups in human rights advocacy by Haitian human rights NGOs.

In rural development too, the participation of disadvantaged communities in the process of analyzing, identifying, implementing, managing and evaluating development interventions is essential. Rural development organizations can be said to face similar challenges when it comes to participation as human rights organizations do. They too, tend to be project-based, rather technical NGOs who do not always base their interventions and development strategies on profound participatory processes with the rural communities. Here too, *Broederlijk Delen* partners often provide valuable counter-examples, for instance in the case of SKDK, a partner who supports networks of community-based organizations in the development planning for their zone. I believe that by stimulating participation of communities and disadvantaged groups both in human rights advocacy as well as in rural development planning, *Broederlijk Delen* can take some steps towards linking human rights principles and rural development.

Accountability

Holding duty bearers accountable to their human rights obligations is part and parcel of the work of human rights organizations. The human rights partners of *Broederlijk Delen* actively monitor the human rights situation throughout the country, document and report on human rights violations, and bring specific cases before national, regional and international human rights bodies. They are also actively engaged in the production of alternative reports to several United Nations committees. However, the monitoring of and reporting on civil and political rights is far more developed than that of social, economic and cultural rights. This is a point the organizations themselves have repeatedly signaled.

⁴⁴ Ibid.

The rural organizations are, by their very nature, mainly involved in improving the socio-economic situation of disadvantaged communities and are confronted with obstacles to the enjoyment of these rights in their work. However, they tend to do so mainly through projects and delivery of services rather than through establishing the obligations of duty bearers with regard to socio-economic and collective rights and support people in claiming their rights.

Broederlijk Delen identified the potential complementarity of rural organizations working in the field and national human rights organizations in strengthening the enforcement of social-economic, cultural and collective rights. So far, initiatives have been taken by the *Platform of Haitian Human Rights Organizations* to engage rural organizations in the analysis of the right to food in several departments of the country. It is also noteworthy to mention that some rural partners are engaging in more actor-oriented approaches to rural development, by engaging in dialogues and collaborations between community-based organizations and local duty bearers. *Broederlijk Delen* can play an important role in further stimulating and documenting such initiatives.

Empowerment

From a HRBAD perspective, empowerment is about making sure that people know their rights and are able to claim them. All human rights partners of *Broederlijk Delen* engage in human rights education for community-based organizations, schools, and officials of government institutions. The *National Human Rights Defense Network* even has a module on active and engaged citizenship in which people are sensitized on how to become more committed citizens. The *National Episcopal Commission for Justice and Peace* facilitated trainings for *Broederlijk Delen's* rural partners and community-based organizations on the right to a healthy environment and on rights of farmers.

However, it is not immediately evident whether human rights education as such truly empowers people to claim rights and whether they are able to do so successfully. The aspect of empowerment surely needs more attention and involves more than merely informing people about their rights. I would even argue that human rights language can also have a disempowering effect if people become conscious of oppression and rights violations without being capacitated to take action against it. I would argue that a lot can still be done to facilitate processes of empowerment of disadvantaged groups and mobilize them to claim their rights.

On Localizing Human Rights

Part of the HR4DEV summer course focused on the importance of making Human Rights relevant to those who should benefit most from claiming them. Localizing human rights refers to a process of “interpreting existing global norms in the light of needs identified by community organizations, and by developing human rights further, particularly at the local and regional levels in the light of these same deeds”⁴⁵. In the same vein, “localization implies taking the human rights need as formulated by local people (in response to the impact of economic globalization on their lives) as the starting point both for the further interpretation and elaboration of human rights norms, and for the development of human rights action, at all level ranging from the domestic to the global”.

I found this theme to be particularly interesting and relevant for the context in which we work in Haiti. Haitian human rights organizations, in general, tend to adopt the established catalogue of human rights instruments and principles without much overt questioning of its contents and its normativity. I notice fairly little ‘challenging from below’ of the established body of human rights

⁴⁵ De Feyter, Koen. *Localizing Human Rights*. Institute of Development Policy and Management. 2006, p4.

principles and mechanisms by Haitian human rights organizations. I have always considered this to be strange, considering that Haiti's own history offers a rather radical vision of freedom from oppression. I am particularly surprised by the heavy reliance on the state as sole duty bearer in much of human rights organizations' discourses. I find this strange, because of the fact that in daily life Haitians tend to rely – or are forced to rely - strongly on community ties and solidarity mechanisms, to the extent that the community might even be considered as a first duty bearer for the respect for people's rights. As Koen De Feyter (2006) argues, "*the idea that local communities have a primary duty to ensure human rights by their own means is in consonance with the idea of localizing human rights*"⁴⁶. I sometimes feel that the resourcefulness of communities to ensure human rights is not always sufficiently valued and recognized by human rights organizations that rely strongly on established human rights norms with a central role for the state.

One partner organization of *Broederlijk Delen*, the *National Episcopal Commission for Justice and Peace*, offers an interesting exception. More than other human rights organizations, this partner focuses on this 'infusion from below', by strengthening community-based human rights commissions, engaging in non-violent conflict resolution on the community level, and observing and documenting human rights violations through teams of volunteers. This approach to human rights is fairly unique and, in my opinion, deserves to be valued more and *Broederlijk Delen* could play a role in promoting community-based redress mechanisms pioneered by its partners.

The Right to Development as a Practical Instrument

Similarly to the way in which *Broederlijk Delen* is currently reflecting on how to put family farming and the experiences of farmers at the center of its development approach, Haitian organizations have been emphasizing the need to put people and communities at the center of development in Haiti. I believe that here again, new approaches to human rights, duty bearers and obligations may offer interesting new possibilities. One such approach is the right to development as a human right.

Before taking part in the *Human Rights for Development* summer course, I was unaware of the profoundly political debates that preceded the eventual formulation of the Declaration of the Right to Development in 1986 and the controversial nature of the Right to Development concept itself up to this day. It was interesting to learn that the Right to Development was originally advanced not as a human right, but as a right claimed by developing countries who emerged from decolonization with considerable socio-economic drawbacks to the realization of human rights. Amid the "conceptual mud and the political quicksand in which it has been mired all these years"⁴⁷, I would like to reflect mainly on the practical usefulness of the Right to Development in the advocacy work of Haitian human rights organizations, which may perhaps also offer some arguments in favor of pursuing the elaboration of legally binding instruments for this right and for considering it more for mobilizing the population for human rights.

In the wake of the devastating earthquake of January 12, 2010, the international donor community formulated the *Action Plan for National Recovery and Development of Haiti*⁴⁸ which was later operationalized in the *Strategic Plan for the Development of Haiti*⁴⁹. Quite a number of the projects proposed in these documents – such as the touristic development of the Île-à-Vache island, the

⁴⁶ Ibid.

⁴⁷ United Nations, *Realizing the Right to Development*. 2013, iii.

⁴⁸ whc.unesco.org/document/106589

⁴⁹ http://www.ht.undp.org/content/dam/haiti/docs/Gouvernance%20d%C3%A9mocratique%20et%20etat%20de%20droit/UNDP_HT_PLAN%20STRAT%C3%89GIQUE%20de%20developpement%20Haiti_tome1.pdf

installation of an export processing zone in the community of Caracol, the administrative center reconstruction, and the elaboration of a new mining law - have since been implemented, more often than not without consultation and information processes for the affected communities. *Broederlijk Delen's* partners have participated in working groups that observe, document and denounce human rights violations in relation to these projects, such as denial of access to information, forced displacements and loss of livelihood for farmers affected by displacements and resource depletion because of government projects. In this context, several articles of the Declaration of the Right to Development offer useful tools to advocate for people-centered, inclusive and participatory development. In the debate on whether or not the right to development ought to be considered a human right, its practical usefulness and its potential for mobilization in the field leads me to advocate that it should.

On Human Rights and Natural Resources in Haiti

The modules on natural resource exploitation and extractive industries have greatly helped me to become more familiar with this issue from a more global perspective. Although *Broederlijk Delen* has not yet explicitly focused on natural resource exploitation in its country programs in Haiti, there is a growing (inter)national concern about the Haitian government's intention to fast track the exploitation of its ores and minerals through the elaboration of a new mining law. The Haitian government is receiving financial and technical support from the World Bank for the drafting of a mining law, but civil society organizations denounce the lack of participation and transparency in the process and fear that the state's lack of capacities to monitor mining exploitations and manage its revenues will result in displacement of people, environmental destruction without bringing benefit to the country and the communities affected. In fact, *Broederlijk Delen's* human rights partners are already engaged in raising awareness among the population on the possible adverse effects of large scale mining, having filed a formal complaint with the World Bank's Inspection Panel, and have obtained an audience with the Inter-American Commission on Human Rights concerning the right to information⁵⁰.

The inputs from the lectures on Extra-Territorial Obligations (ETOs) of states and particularly on the human rights obligations of International Financial Institutions (IFIs) may be helpful to consider in furthering advocacy on the mining issue. As far as I am aware, Haitian human rights organizations have not yet attempted to address the human rights concerns with the mining industry in Haiti from the point of view of the Extra-Territorial Obligations of states like Canada and the US – where mining companies in Haiti originate from – or from the point of view of the human rights obligations of the World Bank under international law. As Skogly argues, “*apart from the Inspection Panel, which may only marginally deal with human rights issues, there are very few redress possibilities in the current systems of human rights implementation*”⁵¹. Moreover, the effectiveness of the World Bank Inspection Panel as a human rights accountability mechanism is limited by its inability to invoke specifically human rights law, its lack of decision-making power, the absence of a role for the petitioners in the Inspection Panel procedure itself, and the limited human rights expertise of the Panel. True enough, when the Haitian *Mining Justice Collective* filed a formal complaint with the Inspection Panel of the World Bank enumerating violations of the World Bank's internal policies in its engagement in the formulation of a new mining law for Haiti, the Inspection

⁵⁰ A recording of the audience with the Inter-American Commission on Human Rights can be viewed on: <https://www.youtube.com/watch?v=xZle3Zu3pKE>

⁵¹ Skogly, Sigrun. *The Human Rights Obligations of the World Bank and the International Monetary Fund*. London, Sydney: Canvendish. 2001.

Panel declined to register the complaint arguing that its internal policies do not apply to the nature of this particular type of technical and financial support...⁵².

Haiti also offers a peculiar example of a country where communities affected by prospective mining explorations do not belong to what might be considered 'minority groups', whereas elsewhere in Central and Latin America natural resources are often situated beneath ancestral lands of indigenous communities. The regional and international human rights frameworks – i.e. the Inter-American and the United Nations' human rights redress mechanisms tend to treat human rights issues surrounding the extractive industries from the point of view of the Indigenous and Tribal Peoples Convention of the ILO⁵³ or other instruments protecting minorities, such as the Inter-American System of Human Rights for People of African Descent. These instruments guarantee rights to participation and free and prior informed consent to cultural minority groups, whereas such rights are not in principle applicable to the majority population. In Haiti, however, the majority population is of African Descent and there are no recognized indigenous peoples or tribal minorities. During an audience on the right to information in the Inter-American Commission on Human Rights, the sitting committee proposed to investigate creative ways to apply these instruments to the case of Haiti.

Conclusion

In this paper, I have tried to offer some reflections on the way *Broederlijk Delen* as an organization integrates human rights principles and mechanisms in its approach to development. I have tried to show that rather than rigorously adopting a single paradigm, *Broederlijk Delen* seems to be combining elements from different possible conceptualizations of the relation between human rights and development. I have argued that this reality might be the result of the way in which *Broederlijk Delen* negotiates between its own thematic choices, the outcomes of consultations and reflections with its partner organizations, and the realities of the contexts, partnerships and programs in the Global South. I have suggested that *Broederlijk Delen's* practices also contain elements of rather new and emerging human rights conceptualizations, such as the right to development and transnational human rights obligations.

Specifically in the context of *Broederlijk Delen's* program in Haiti, I have tried to show how the organization is searching to meaningfully link the work of its national human rights organizations to its rural development partners. I have tried to point towards both existing and potential links through the lens of the HRBAD principles, while also signaling that these links are by no means self-evident and will require a thorough process of reflection and building from experience. I have hinted at some of the local dynamics in Haiti that reflect evolutions on the organizational level of *Broederlijk Delen*, namely the move towards new paradigms such as the right to development as a human right and transnational obligations of companies, international financial institutions and foreign governments. Finally, I have emphasized the existence of promising initiatives to localize human rights by partner organizations as an alternative to the centrality of the state that dominates a more normative application of human rights principles and mechanisms.

⁵² A copy of the letter of determination is available at <http://www.accountabilitycounsel.org/wpcontent/uploads/2012/05/Notice-of-Non-RegistrationEnglish.pdf>.

⁵³ http://www.ilo.org/wcmsp5/groups/public/---ed_norm/--normes/documents/publication/wcms_100897.pdf

Linking conflict to development: a case study of the role of women in Nicaragua

Ellen Van Damme

Introduction

Economic scholars, like Blattman and Miguel (2010) and Besley and Persson (2011), investigated the connection between (economic) development and conflict, by focusing on civil wars occurring in the past two decades. In this paper we do not focus on conflict or war in the conventional sense,⁵⁴ but rather on gang related conflict. We will focus on two aspects: first, the link between conflict and development in Nicaragua; and second, the (potential) role of women in this conflict-development nexus. This paper is based on HR4DEV courses and literature, other scientific literature and policy papers.

The reason why I chose to make a link between conflict and development in Nicaragua is because even though the country suffers from low development levels, this did not have a great influence on the level of crime or conflict in the country (cf. *infra*). There is currently no armed conflict in the conventional sense, but the presence of gangs in the country is one of the main actors responsible for crime and violence. By discussing these aspects, and linking them to other situations whereby women have had a role in conflicts, conflict resolution and peace processes, I want to argue that more research regarding the role of women in Nicaraguan street gangs is of importance to development in the country, since this is highly lacking.

Conflict and development in Nicaragua

In this section we discuss the link between conflict and development in Nicaragua. We first give some details on the level of development, followed by an assessment of how the presence of gangs has an influence on the development of the country.

Nicaragua is the poorest country of Central America and has an income inequality of 43 on a scale of 100 (UNODC, 2007). With a Gross National Income (GNI) of \$1,830 per capita, almost half of the population (42%) lives below the poverty line. As such, the World Bank categorized Nicaragua, with a Gross Domestic Product (GDP) of \$11.81 billion and a population of 6.169 million citizens (in 2014), as a lower middle income country (World Bank, n.d.). Furthermore, the country is ranked 132 on the Human Development Index (HDI) (UNDP, n.d.). Nevertheless, one might question to what extent the GNI, GDP and HDI tell us something about the development in a country, since the GDP only measures material wealth and, for example, does not take into account the quality of life (Steckel, 2008). HDI, on the other hand, goes beyond this by including other aspects of development, like health and knowledge. However, regarding the education aspect, they only take into consideration the quantity of education and fail to look at the quality. Although more inclusive than the GDP, HDI also lacks in taking into account other important aspects of development, like freedom of speech, political participation, and gender equality, among others (Smets, 17/08/2015).

As well as El Salvador and Guatemala, Nicaragua suffered from a civil war. UNODC (2007), states that violence in these regions became normalized and imbedded into the every-day life of civilians. Nicaragua, along with El Salvador, Guatemala and Honduras (the Northern Triangle), suffers from gangs, which *“are seen to be at the core of the local crime problem”* (UNODC, 2007, p. 58). According to estimates, about 4500 gang members are active in Nicaragua. As opposed to the

⁵⁴ According to Your Dictionary, a conventional warfare is *“the waging of war in set military battles, as opposed to waging guerrilla warfare or fighting insurgencies”* (<http://www.yourdictionary.com/conventional-warfare>).

Northern Triangle, even though Nicaragua always has had street gangs, they never had to deal with the more violent *maras*. This, UNODC (2012) states, has to do with the fact that the *mara* culture and habits is being imported from migrants living in California, while Nicaraguan US migrants grouped together in Florida.

According to a UNODC's (2007) study on crime and development in Central America, crime hinders development on three levels: the society, the economy and the governance. First of all, crime impacts society by victimizing its citizens, impeding one's labor and educational development, and brain drain. For example, 30% of the skilled labor inhabitants of Nicaragua migrated to other countries. According to World Bank Research (World Bank, 2011), the disability-adjusted life year (DALY) cost related to crime and violence injuries goes up to \$38 million a year; which is almost 1% of the country's GDP. Secondly, crime has an impact on the economy as it hinders investors to startup businesses or to continue doing business; corruption also plays an important role regarding this aspect, and tourism rather stays away from crime prone environments. In Nicaragua, for example, businesses reported being the victim of corruption (66%), having to pay bribes to criminal organizations (46%), and losing sales due to crime (7%). According to World Bank Research (World Bank, 2011), 3.1% of Nicaraguan business sales go to security related investments or losses due to violence. Moreover, the enterprise managers claim that 25% of the violent crimes that affect their businesses can be attributed to gangs. Thirdly, crime, as well as corruption, has an influence on people's trust in their government and democracy. Regarding governance and democracy in Nicaragua, research has shown that when citizens have an increased concern of being victimized by criminal groups, they are more willing to support or legitimize a coup d'état.

Besides UNODC and the World Bank, a few other organizations focus in their country strategies on the situation of crime in Nicaragua. For example, in the country strategy for the period 2014-2020, the EEAS states that *"although insecurity is less acute in Nicaragua than in the 'Northern Triangle' countries, it is on the rise, especially on the Caribbean coast"* (EEAS, 2014, p. 2). While the country has to cope with an increasing younger population, 11% of the young men are between 15 and 24 years old (UNODC, 2007), education standards and job opportunities are lacking (EEAS, 2014). The 2010 Poverty Reduction Strategy Paper of the IMF concerning Nicaragua confirms the fact that youth gangs arise due to poverty and unemployment. For this reason it advises that Nicaragua's Poverty Reduction Strategy Program should include projects *"against domestic violence, control and reintegration of youth gangs and a formal struggle against criminal activity in general, anticipating that deceleration of crime will be the result"* (IMF, 2010, p. 48,68).

Conflict-development nexus: the role of women

In the previous section we discussed the link between conflict and development in Nicaragua, by focusing on gangs, in general. In this section we focus on the specific role of women in conflict and development.

Although we have no knowledge on the involvement of women in Nicaraguan street gangs, we do know women were active as combatants in the civil war (Bouta, Frerks & Bannon, 2005). The amount of women who were actively involved in armed conflicts, or supported the struggle by cooking and taking care of the combatants, is fairly unknown. Consequently, during a DDR process women are often marginalized, since they are either not recognized as forming part of the armed forces or their role is being diminished. On the other hand, even when DDR programs want to include female combatants in the process, they often prefer not to identify themselves, *"out of fear of stigmatization and association with killings, sexual violence, rape, illegitimate children, and sexual promiscuity"* (Bouta, Frerks & Bannon, 2005, p. 18).

Even though the role of women is being underestimated in conflicts and conflict resolution, it has been put forward as highly important in development issues. For example, two years ago, on international women's day (March 7, 2013), Marie Staunton⁵⁵ praised the Juan Francisco Paz Silva Cooperation for paying compensations to women who indirectly support the production of coffee and sesame oil that is being exported from Nicaragua to the UK. Farmer's wives are often occupied with cleaning the seed, washing the clothes of the workers, taking care of the children, and providing the laborers with meals (Staunton, 2013). Women were often not rewarded for their indispensable work, but now they are rewarded with an investment of \$30,000 in the cooperative. The women decided to use the money for vocational trainings in their communities (Balch, 2014).

The Foundation for Sustainable Development (FSD), in Nicaragua, also acknowledges the economic importance of women in agriculture business. According to them *"women are largely in charge of labor intensive tasks for maintaining the household – carrying water, collecting fuel wood, caring for children, producing agriculture, and working in the market"* (FSD, n.d.). Development actors like NGOs, also support women in particular. For instance, the organization *Pro Mujer*, provides women with health services, but also with loans to start up or further develop their own businesses (Pro Mujer, n.d.). Other NGOs, like Women's Empowerment Network (WEN), focus on female health care, by providing trainings to midwives (WEN, n.d.).

So we saw that women in conflicts and conflict resolution are being marginalized, but in the context of development some efforts have been done to address the specific needs of women. This should also be done in the case of conflict resolution,⁵⁶ if we want to promote the development process. For example, when the Nicaraguan civil war came to an end, the United Nations Observer Group in Central America (ONUCA), deployed from 1989 to 1992, did not make any distinction regarding the specific needs of men and women in their Disarmament and Conflict Resolution Project (Wrobel, 1997). However, since the adoption of Security Council resolution 1325,⁵⁷ in October 2000, states are required to involve women in all aspects of conflict resolution and peace processes. Also the International Coalition for the Responsibility to Protect (ICRtoP), calls upon the international community *"to support the implementation of commitments made in SCR 1325, the Beijing Declaration and Platform for Action (BPFA), Beijing + 5 review and R2P to protect women in conflict situations and engage them in the resolution of violent conflicts and the rebuilding of peaceful societies"* (ICRtoP, n.d.). The ICRtoP further draws attention to the key role of women's organizations as an early warning mechanism to report on conflicts in their communities, since women due to their vulnerability are often the first targets in an upcoming conflict. Subsequently, it is of importance to hear their voice on early conflict resolution (and preferably also prevention?) in their community (ICRtoP, n.d.).

Given that according to ICRtoP (n.d.) *"women and women's organizations must also be engaged in the process to end the conflict, including early negotiations between parties"*, we might wonder why

⁵⁵ Staunton is the Chair of Raleigh International and of the Equality and Diversity Forum.

⁵⁶ According to UNITAR (n.d.), *"Conflict resolution is the set of methods and approaches used to facilitate the peaceful de-escalation and termination of a conflict. Defined broadly, it may include democratisation or even development. Indeed, political participation through democratic processes may be a method to avoid conflict in the first place or at least to ensure the fair treatment of the causes of the conflict. Alternatively, conflict resolution can be defined more narrowly to refer solely to those efforts undertaken to resolve conflicts directly through communication (negotiation, mediation, peace conference, diplomacy, etc.)."*

⁵⁷ UN Security Council, *Security Council resolution 1325 (2000) [on women and peace and security]*, 31 October 2000, S/RES/1325 (2000), available at: <http://www.refworld.org/docid/3b00f4672e.html> [accessed 21 November 2015]

this has not been the case in for example the 2012 gang truce in El Salvador (López Calvo & Santos Pejic, 2013). Drawing upon the advice of ICRtoP, we should include women in solving conflicts, such as gang issues in Central America.

Since there is virtually no research available on the involvement of women in gang (conflict) resolution, we need to draw upon other experiences of women involved in (non gang related) conflict resolution. USAID (2007, p. 2) straightforwardly states that *“interventions are more effective and lasting when they integrate an understanding of women’s perspectives”*. They further emphasize the importance of involving women in the entire process of conflict prevention, resolution, and peace negotiations. The report concludes with several lessons learned regarding the role of women in conflicts and conflict resolution: support women’s networks, address gender-based violence and conflict, develop cultural understanding, promote community-based participation, increase women’s participation in decision-making, and livelihoods. Moreover, since more or less half of the population consists of women, a sustainable accord regarding prevention or peace should include both sexes. In other parts of the region, like Guatemala, women participated in peace organizations and coalitions, during the war, to foster the peace process (USAID, 2007).

Notwithstanding the fact that we do not have a lot of information on the role of women in armed conflicts (cf. supra), we do know that they can also be actively involved in armed groups as a *“domestic servant, cook, sexual partner, porter, guard, informant and soldier”* (USAID, 2007, p. 5). They were either forced to do so or joined the armed group on a voluntary basis. This involvement of women in armed groups shows linkages with the involvement of women in gangs. According to research on women in street gangs in El Salvador, female gang members can be both a victim and a perpetrator at the same time. They are often victim to gang rape and beatings. However, they can equally become a perpetrator within the gang, whereby they are mostly used to collect the extortion money and as an informant (IUDOP, 2012).

Conclusion

In this paper we discussed the link between conflict and development in Nicaragua, by focusing on the role of women in (armed) conflicts and peace processes on the one hand, and in development of the country on the other. We found that even though women are indicated in development policy papers and strategy plans as important actors, they are not equally involved in conflict resolutions and peace processes. Several (international) institutions drew attention to the necessity of including women in all aspects of peace negotiations and resolutions. Furthermore, since there have not been any official negotiations on a possible peace accord between the gangs in Nicaragua – and the 2012 gang truce in El Salvador gives us an example of how this can fail –, more research on the role of women in gangs is necessary. The latter should also be linked to development processes, and the role of women in these processes, in Nicaragua. Therefore, I suggest research should focus on the following questions: what is the role of women in Nicaraguan street gangs? Are gang-related women perpetrators or victims? What is the role of women in development processes in the country and how can gang-related women be inserted in these development processes? These questions should be researched using a qualitative framework, conducting life story and other in-depth interviews with gang-related women. Since it is not easy to access these women, it is important to work with a gatekeeper (or several gatekeepers) who can facilitate a way into the field and can establish contacts with interviewees.

References

- Balch, O. (2014, December 30). Women in Nicaragua combat country's macho culture. *The Guardian*. Retrieved August 25, 2015, from <http://www.theguardian.com/global-development/2014/dec/30/nicaragua-female-farmers-agriculture-macho-culture>
- Besley, T., & Persson, T. (2011). *Pillars of prosperity: the political economics of development clusters*. Princeton: Princeton University.
- Blattman, C., & Miguel, E. (2010). Civil war. *Journal of Economic Literature*, 48(1), 3-57.
- Bouta, T., Frerks, G., & Bannon, I. (2005). *Gender, Conflict, and Development*. Washington, D.C.: The World Bank.
- EEAS (2014). *Country strategy paper and multiannual indicative programme 2014-2020: Nicaragua*.
- Foundation for Sustainable Development (n.d.). *Gender equity issues in Nicaragua*. Retrieved August 25, 2015, from <http://www.fsdinternational.org/country/nicaragua/weissues>
- IMF (2010). *Nicaragua: Poverty Reduction Strategy Paper (IMF Country Report No. 10/108)*. Washington: IMF Publication Services.
- International Coalition for the Responsibility to Protect (n.d.). *The role of women in armed conflict*. Retrieved August 25, 2015, from <http://www.responsibilitytoprotect.org/index.php/role-women-in-armed-conflict/9-the-role-of-women-in-armed-conflict>
- IUDOP (2012). *"Seconds in the air": women gang-members and their prisons*. San Salvador: University Institute of Public Opinion.
- López Calvo, V., and Santos Pejic, G. (2013). El Salvador: truce for the gangs, no truce for women. Latin America Bureau. Retrieved April 14, 2015, from <http://lab.org.uk/el-salvador-truce-for-the-gangs-is-not-truce-for-the-gender>
- Pro Mujer (n.d.). *Nicaragua*. Retrieved August 25, 2015, from <http://promujer.org/where-we-work/nicaragua/>
- Staunton, M. (2013, March 7). Nicaragua's cooperative approach to empowering women. UK: The Huffington Post. Retrieved August 25, 2015, from http://www.huffingtonpost.co.uk/marie-staunton/women-empowering-nicaragua_b_2827981.html
- Steckel, R. H. (2008). Standards of living (historical trends). In S. N. Durlauf & L. E. Blume (Eds.), *The new palgrave dictionary of economics*. USA: Palgrave Macmillan.
- UN Security Council, *Security Council resolution 1325 (2000) [on women and peace and security]*, 31 October 2000, S/RES/1325 (2000), available at: <http://www.refworld.org/docid/3b00f4672e.html> [accessed 21 November 2015]
- UNDP (n.d.). *Human Development Reports. Table 1: Human Development Index and its components*. Retrieved August 26, 2015, from <http://hdr.undp.org/en/content/table-1-human-development-index-and-its-components>
- UNITAR (n.d.). *Conflict resolution [PTP.2013.25E]*. Retrieved November 21, 2015, from <https://www.unitar.org/event/conflict-resolution-ptp201325e>
- UNODC (2007). *Crime and development in Central America: Caught in the crossfire*. Vienna: UNODC.
- UNODC (2012). *Transnational organized crime in Central America and the Caribbean: A threat assessment*. Vienna: UNODC.
- USAID (2007). *Women & Conflict*. Retrieved August 25, 2015, from http://pdf.usaid.gov/pdf_docs/Pnadj133.pdf
- Women's Empowerment Network (n.d.). *Nicaragua project: midwife training*. Retrieved August 25, 2015, from <http://womensempowermentnet.org/nicaragua/>
- World Bank (2011). *Crimen y violencia en Centroamerica: un desafio para el desarrollo*. Retrieved from http://siteresources.worldbank.org/INTLAC/Resources/FINAL_VOLUME_I_SPANISH_CrimeAndViolence.pdf
- World Bank (n.d.). *Data: Nicaragua*. Retrieved August 26, 2015, from <http://data.worldbank.org/country/nicaragua>
- Wrobel, P. S. (1997). *Disarmament and Conflict Resolution Project. Managing Arms in Peace Processes: Nicaragua and El Salvador*. Geneva: United Nations Institute for Disarmament Research.

The Right to Development and International Refugee Law

Andrew Wolman

Since the Right to Development was first proposed in the 1970s and 1980s, academic researchers have endeavored to apply the concepts contained within the Right to Development to a number of different areas of global policy, including international environmental law, international trade law, and global finance. To a certain extent, Right to Development concepts have also been influential in how the UN and individual countries address these issue areas. The right to development has, for example, been included in major environmental declarations such as the Rio Declaration on Sustainable Development.⁵⁸

So far, however, there has been little attention to whether – or how – the Right to Development is relevant to international refugee law. This omission is surprising: refugee flows in the current era, in many but not all cases, involve flows of individuals from less developed to more developed countries. Mixed migrations increasingly involve persecuted individuals, individuals fleeing conflict, and individuals seeking to live in better economic conditions. This paper will address this issue by exploring the implications of the Right to Development to our proper understanding of refugee law in the twenty-first century. As discussed in the conclusion section, the paper is based on material covered during the 2015 HR4Dev summer course and was inspired by the lectures of Dr. Arne Vandenberg and Dr. Amita Punj.

The Right to Development: A Short Introduction

There is no easy or universally accepted definition of the Right to Development. It is a historically contested concept, and remains so today. The starting point, however, must be the Declaration on the Right to Development, which was adopted by the UN General Assembly in 1986.⁵⁹ Among the various topics covered in the Declaration, three issues are of particular importance, and will be discussed here in turn. First, there is the issue of right holder. According to Article 1 of the Declaration, “every human person and all peoples” can participate in, contribute to, and enjoy certain rights.⁶⁰ Thus, individuals are rights-holders. The term ‘peoples’ is familiar from the context of self-determination, and generally refers to groups with some objective ties of language, ethnicity, race, religion, location, etc., who subjectively see themselves as a collective. Whether or not a group constitutes a ‘people’ is of course very controversial in many specific instances, though. Finally, developing countries, have also supported the idea that States themselves possess rights under the Right to Development. This has largely been rejected by developed nations, however.

Second, there is the question of which entities have duties or responsibilities under the Right to Development. While the Declaration on the Right to Development concentrates on the responsibilities of States (whether within or outside their borders), many commentators have also proposed assigning responsibility to transnational corporations, international financial actors and other non-state actors. These duty-bearers have not yet been fully accepted as a matter of

⁵⁸ Of course, the Right to Development’s influence has been curbed by the ongoing disagreements over its content, and the refusal of the United States to recognize its existence.

⁵⁹ UN General Assembly, Declaration on the Right to Development, A/RES/41/128 (4 December 1986).

⁶⁰ *Ibid.*, art. 1.

international law, however. Article 2 of the Declaration on the Right to Development goes somewhat further, by assigning responsibilities to all human beings, individually and collectively.⁶¹

Third, there is the issue of the substance of the right to development. What, precisely, is the right holder entitled to? Possible rights can be broken down into those owed within a State's borders, and those owed to others in the international community. Both types are discussed, in very general terms, in the Declaration on the Right to Development. Developed countries tend to stress the former, however, which broadly includes the "duty to formulate appropriate national development policies that aim at the constant improvement of the well-being of the entire population and of all individuals, on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting therefrom".⁶² Developing countries emphasize extraterritorial duties, which at a minimum include the duty to "co-operate ... in ensuring development and eliminating obstacles to development"⁶³ and also have been often interpreted to include international aid, technology transfer, fair trade and intellectual property rules, global environmental justice, an end to odious debt enforcement, and other measures.

Refugee Flows and Development

International refugee law was developed in the post-World War II era as a response to intra-European refugee issues, with little input (or attention) to what we would now consider the developing world. Today, however, refugee flows overwhelmingly involve the movement of individuals away from less developed countries. According to the UNHCR Global Trends 2014 Report, the ten top refugee sending countries are Syria, Afghanistan, Somalia, Sudan, South Sudan, Democratic Republic of Congo, Myanmar, Central African Republic, Iraq, and Eritrea.⁶⁴ As of the latest (July 2014) UN human development index report, none of these countries have a human development index above 0.658, or 118th in the world (the highest ranked being Syria which has probably regressed since then with its continuing civil war).⁶⁵ Many of these refugees have fled to developed countries, especially Europe, including through highly dangerous boat trips across the Mediterranean. The majority, however, have sought asylum in nearby countries that may still be developing, but are more stable and present more economic opportunities than the countries from which the refugees are fleeing.⁶⁶

Despite the importance of development to forced migration, it is hardly addressed by contemporary forced migration law. The refugee definition is based on flight from persecution, not poverty or under-development. Other global treaties such as the Human Trafficking (Palermo) Protocol deal with particular types of forced migration, but not underdevelopment. The root causes of migration are not the subject of international migration law, with the exception of a few isolated and poorly observed treaty clauses.⁶⁷

⁶¹ Ibid., art. 2.

⁶² Declaration on the Right to Development, at art. 2(3).

⁶³ Ibid., art. 3(3).

⁶⁴ UNHCR, Global Trends Report 2014 (2015), 14, at <http://unhcr.org/556725e69.html>.

⁶⁵ UNDP, Human Development Report 2014, at <http://hdr.undp.org/en/content/human-development-report-2014>. This does not include data for South Sudan.

⁶⁶ According to UNHCR, the top refugee hosting countries are Turkey, Pakistan, Lebanon and Iran. UNHCR, *supra* note 4 at 12.

⁶⁷ See for example art. 9(4) of the Palermo Protocol ("strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity")

How can Right to Development influence our understanding of refugee law?

How, then, can the Right to Development influence our understanding of how international refugee law should be interpreted? I would argue that there are three general areas where the Right to Development can show us the way to a more relevant refugee law framework than that which currently exists. First, the Right to Development impresses on the international community the need for states to address human rights issues even beyond their borders by stressing the international duties of developed states to provide for an international environment conducive to development. This idea can also be transferred to the refugee arena. While it will never be possible to end forced migration, developed countries can significantly reduce asylum seeking by devoting more resources to addressing the reasons for such migration at their source, whether those reasons be persecution, civil war, environmental degradation, or poverty. Of course, while the specific actions to be taken by developed countries will be controversial and highly debated, there should be little debate that certain actions can only help: increased foreign aid; reduced arms sales to rebel group and persecuting regimes; lowering the greenhouse gas emissions that are already causing an environmental catastrophe, and providing political support for good governance. Such actions would also promote development – thus helping fulfill the Right to Development – as well as reducing asylum seeking.

Second, it should be recalled that the Right to Development stresses the idea that all human rights must be comprehensively respected, and that there can be no full realization of the Declaration if that is not the case. The Refugee Convention is not comprehensive in its scope, in that it awards refugee status only to those who face the threat of persecution based on political opinion, race, religion, nationality or membership in a social group. Individuals who are not able to fully enjoy their human rights because of poverty, war or environmental disaster are not generally given refugee status, even though they have great need, and in some cases make up a large proportion of mixed migration flows. If one looks to the Right to Development's emphasis on comprehensive attention to all rights, then a more appropriately drafted refugee law would protect all people in need. This is more similar to the definition embraced in Africa and Latin America.

Third, the Right to Development emphasizes that countries have the primary duty to promote and protect the full range of human rights within their own borders. If this idea is exported to the international refugee law regime, then it makes sense to think about how states can be held responsible for creating the conditions within their borders (including persecution, war, and poverty) that force their citizens to seek asylum elsewhere. One idea that has recently been floated by Guy Goodwin-Gill and Selim Can Sazak would be to make refugee-creating states responsible to pay for the costs borne by other (usually neighboring) states to care for massive refugee flows that they have caused.⁶⁸ This would help compensate states that care for large numbers of refugees, and in theory would place a monetary incentive on states to avoid creating refugee flows. In practice, of course, it is hard to judge responsibility (or sometimes even causality) for refugee flows, and source states will often lack capability to pay.

Conclusion

Prior to attending the HR4Dev summer course, I had not studied the Right to Development in any depth. My research interests were more focused on refugee law. However, during the first week of the course, the sessions on the Right to Development with Dr. Arne Vandenberg and Dr. Amita Punj got me thinking more about the Right to Development and how it might inform attitudes

⁶⁸ Guy Goodwin-Gill and Selim Can Sazak, 'Footing the Bill: Refugee-Creating States' Responsibility to Pay', *Foreign Affairs* (July 29, 2015).

towards other global issues. The lecturers took very different positions on the helpfulness of the Right to Development, which forced me to justify to myself how I thought it could or could not be made relevant to global policymaking. Other lectures throughout the course also helped impress upon me the interconnectedness of development and human rights at a more conceptual level. This led me to consider more the relationship between development and migrant rights, which are after all an increasingly important category of human rights.

As this short paper indicates, I feel that in fact the Right to Development is relevant to international refugee law, and that the current framework for international refugee law fails in certain respects to fully promote and fulfill the Right to Development. Of course, there are political, diplomatic, economic and historical reasons why this is the case. Revising the international refugee law framework in the manner suggested in this paper would be politically impracticable, if not impossible. Nevertheless, idealistic objectives can provide guidance for incremental improvements, and few would argue that such improvements are unwarranted in this case, given the failure of international refugee law to comply with the international community's expressed policy framework contained in the Right to Development.

ANNEX I: HR4DEV 2015 – SUMMARY PROGRAMME

Week 1							
	Sunday 16-08	Monday 17-08	Tuesday 18-08	Wednesday 19-08	Thursday 20-08	Friday 21-08	Saturday
Theme	Arrival	Welcome Development	Human rights	Right to development	Rights based approaches to development	Flipping the classroom: new approaches to HR and development	Free
9-10:30		Official opening Practical information briefing Getting to know each other	International human rights law and institutions >> S. Smis	Overview: linking human rights and development >> W. Vandenhoele The right to development: concept, context and current debate (part 1) >> A. Punj >> A. Vandenbogaerde (discussant)	Human rights based approaches to development (HRBAD): concepts, context and current debates >>W. Vandenhoele	This ‘flipping the classroom’ platform gives the floor to participants to give their perspectives on human rights and development approaches in parallel sessions.	
10:30-11		Coffee & tea	Coffee & tea	Coffee & tea	Coffee & tea	Coffee & tea	
11-12:30		Development paradigms >> L. Smets	Critical approaches/ perspectives to human rights (1) >>E. Brems	The right to development: concept, context and current debate (part 2) >> A. Punj >> A. Vandenbogaerde (discussant)	HRBAD experiences of an international organization: UNESCO >> K. Tararas	‘Flipping the classroom’ platform (continued). 12.00 Community of Practice on Human Rights and Development’ >>Samuel Cogolati	
12:30-14		Lunch break	Lunch break	Lunch break	Lunch break	Lunch break	
14-15:30		Development and conflict >> L. Smets	Critical approaches/ perspectives to human rights (2) >> E. Brems	A critical perspective on the right to development >> A. Vandenbogaerde	Children’s rights approach to development >> W. Vandenhoele	Free	
15:30-16		Coffee & tea	Coffee & tea	Coffee & tea	Refreshments		
16-17:30	16.30 start Leuven walking tour	Briefing paper assignment Law library tour	Brainstorm paper & open forum	Critical approaches gender and development >> A. Punj	Paper/open forum		
Evening	18.30 start Welcome dinner	Free	Free	Free	Free	Free	

Week 2 – Natural resources and actor-oriented approaches to human rights							
	Sunday 23-08	Monday 24-08	Tuesday 25-08	Wednesday 26-08	Thursday 27-08	Friday 28-08	Saturday 29-09
Theme	Free	Introduction	Transnational actors	Perspectives from below	Towards another development	Project work	Free
9-10:30		Natural resources and actor-oriented approaches to human rights: structure, objectives and introduction to the case study >>E. Desmet	Transnational human rights obligations >>W. Vandenhoele	Localising human rights >>K. De Feyter	Alternative approaches (part 1) >>J.P. Olivier De Sardan	Project work, part 3: presentation >>Ghent team	
10:30-11		Coffee & tea	Coffee & tea	Coffee & tea	Coffee & tea	Coffee & tea	
11-12:30		Natural resource exploitation: setting the scene >>J. Aylwin	Corporations' accountability >>L. Verdonck	Human rights and legal pluralism >>G. Corradi	Alternative approaches and human rights (part 2) >>J.P. Olivier De Sardan	Project work, part 4: debate >>Ghent team	
12:30-14		Lunch break	Lunch break	Lunch break	Lunch break	Lunch break	
14-15:30		Human rights, children's rights and natural resource exploitation >>J. Aylwin	Project work, part 1: transnational actors >>L. Verdonck	Project work, part 2: perspectives from below >>G. Corradi	Panel discussion with NGOs >>E. Desmet >>L. Hoex >>I. Van Gisbergen >>W. Williams	Closing of first module; Evaluation & brainstorming session	
15:30-16		Coffee & tea	Refreshments	Refreshments	Refreshments	Refreshments	
16-17:30		Documentary ('Law of the Jungle')	Paper	Paper	Project work: final preparations		

Week 3							
	Sunday 30-08	Monday 31-08	Tuesday 01-09	Wednesday 02-09	Thursday 03-09	Friday 04-09	Saturday 05-09
Theme	Arrival of participants for second module	Welcome / Transitional justice	Criminal prosecutions	Truth commissions	Reparations for victims	Other mechanisms and approaches	<i>In collaboration with the Museum for Holocaust and Human Rights – Kazerne Dossin</i> Excursion to the museum in Mechelen (optional and at your own expense)
9-10:30		<i>In collaboration with the Africa-Low countries network on international crimes</i> Official opening of the second module Practical information briefing Getting to know each other	Localising transitional justice: where are the women? >> T. Destrooper	Truth (and reconciliation) commissions: the third way? >> S. Parmentier	The right to reparation for victims of serious human rights violations and international crimes >> R. Letschert	Interactive workshop: designing reparation policies >> R. Carranza	
10:30-11		Coffee & tea	Coffee & tea	Coffee & tea	Coffee & tea	Coffee & tea	
11-12:30		Transitional justice: origins and models >> S. Parmentier	From impunity to accountability: amnesties and criminal justice >> J. Nyawo	Interactive workshop with DVD 'Confronting the Truth: Truth Commissions and Societies in Transition' >> KU Leuven team	Reparations and institutional reforms >> R. Carranza	Traditional justice in conflict and post-conflict situations >> B. Ingelaere & A. Muleefu	
12:30-14		Lunch break	Lunch break	Lunch break	Lunch break	Lunch break	
14-15:30		Workshop: challenges of transitional justice in practice >>P. Gossman	The International Criminal Court and Africa >> J. Nyawo	Truth commissions and their recommendations >> M. Aciru	Reparations for women victims of sexual violence: the case of the DRC >> V. Busck-Nielsen	Memory and memorialization: roundtable discussion >> B. Bevernage >> B. Ingelaere & A. Muleefu (discussants)	
15:30-16		Coffee & tea	Coffee & tea	Refreshments	Coffee & tea	Refreshments	
16-17:30		Briefing paper assignment Leuven law library tour	Universal jurisdiction laws: the case of Hissène Habré >> M. Schotsmans	Paper/Open forum	Transitional justice and constitution-building: lessons learnt from Libya >> P. Sullo	Free	
Evening		Free	Free	Free	Free	Free	

Week 4										
	Sunday 06-09	Monday 07-09	Tuesday 08-09	Wednesday 09-09	Thursday 10-09	Friday 11-09	Saturday 12-09			
Theme	Free	Field visit to Brussels	Linking transitional justice and development	Topical issues in transitional justice: children and gender	Human rights, development and transitional justice	Closing sessions	Departures			
9-10:30		8:45 departure (venue TBC) Meetings with representatives of European Union institutions in the field of human rights, development and transitional justice	Transitional justice and development: how to make the link? >> S. Vandeginste	The reintegration of child soldiers in Uganda >> I. Derluyn	9:30 start With the support of the International Society for Criminology (ISC) Public symposium: human rights, development and transitional justice: reaching back, looking forward	Course evaluation by participants				
10:30-11						Closing keynote lecture: ‘Socio-economic rights and transitional justice: Expanding mandates or making human rights whole?’ >> E. Schmid				
11-12:30						Coffee & tea		Coffee & tea	Chaired by >> K. Lemmens and S. Parmentier Keynote lectures by >> M. Ayat >> N. Huls >> C. O’Rourke >> C.L. Sriram >> E. Zinsstag	12:00 Closing ceremony
12:30-14						Socio-economic crimes in Afghanistan through the lens of transitional justice and development >> H. Saeed		Interactive workshop: reconciliation with child soldiers >> I. Derluyn & B. Alipanga		
14-15:30		Lunch break	Lunch break	Lunch break	Lunch break	Closing reception				
15:30-16		Meetings with non-governmental organisations in the same fields	Interactive workshop: doing field research in post-conflict situations >> M. Rauschenbach	The place of gender in transitional justice >> C. O’Rourke	Roundtable discussion with academics, policy makers and NGOs	Free Departures				
16-17:30			Refreshments	Refreshments	Concluding remarks					
Evening			17:30 trip back to Leuven	paper	paper deadline			Free		
		Free	Free	Free		Free				

ANNEX II: Bibliographies of participants and speakers

PARTICIPANTS OF THE ENTIRE COURSE

Adeola, Romola

Nigeria

aderomola.ade@gmail.com

Romola Adeola holds a Masters in Law with distinction and is currently conducting her doctoral studies in the field of human rights and development at the Centre for Human Rights, Faculty of Law, University of Pretoria in South Africa.

Akayezu, Muhumuza Valentin

Rwanda

akamva@yahoo.fr

Muhumuza Valentin Akayezu is a Legal Practitioner and a Human Rights Activist. He holds a Master Degree (LLM) in Business Law from National University of Rwanda, a Post-graduate Diploma in Legal Practice and Development studies and a MA in Development studies with a specialization in Human Rights and Peace Studies delivered by International Institute of Social Studies (ISS), part of Erasmus University of Rotterdam (Netherlands). Previously, he was Magistrate Court in Rwanda's judiciary for nine years and a Member of Bar for five years and part-time Assistant Lecturer in Institute of Applied Sciences, INES-Ruhengeli (Rwanda).

Ayalew, Albab Tesfaye

Ethiopia

tesfaye@africa-union.org

Albab Tesfaye Ayalew works as a Legal Officer at the African Commission on Human and Peoples' Rights, based in Banjul, The Gambia. She further assists the Committee for the Prevention of Torture in Africa, a subsidiary mechanism set up by the Commission. She has an LL.M. in Human Rights and Democratisation in Africa from the University of Pretoria (2012) and an LL.B. from Addis Ababa University (2009). She has worked as a legal intern in the Office of the Legal Counsel, African Union Commission and a few other institutions.

Barroso da Graça, Luís Otávio

Brazil

luisbg@senado.leg.br

Luis Otavio Barroso da Graça is a lawyer and a Senior Legislative Advisor of the Brazilian Federal Senate. He has an M.Sc. in Economics from the University of Brasilia.

Douglas, Shiyani

Sri Lanka

dleebana@gmail.com

Shiyani Douglas is currently working as a lawyer in Jaffna, Sri Lanka. She is also a visiting lecturer at the IDM National Campus and a legal advisor at the Centre For Women & Development. Ms. Douglas obtained her Master's degree in Law at the South Asian University in New Delhi.

Froehlich, Fanny

Austria

fannyfroehlich@hotmail.com

Fanny Froehlich's academic achievements include Diploma Studies in History at Vienna University, Austria, and a Master Programme International Studies at Aarhus University, Denmark. She's a volunteer at Y Care International (NGO) conducting youth focused development projects in Sub-Saharan Africa (Africa Programme Support). She has applied for a PhD Research Programme Development Planning at University College London, United Kingdom. In the past, she finished an internship at the Austrian Embassy in Addis Ababa, Ethiopia and has undertaken several journalistic activities.

John, Rubin Thomas

India

rubintjon@gmail.com

Rubin Thomas John is an Assistant Professor of Law at Mar Gregorios College of Law in Kerala, India. He is pursuing his PhD as a Supernumerary Academic Staff with the Law and Development Research Group, Faculty of Law, University of Antwerp, Belgium. Mr. John did his LL.M from University of Maastricht, Netherlands, specializing in Public International Law and Human Rights.

Kaapama, Phanuel

Namibia

pmkaapama@hotmail.com

Phanuel Kaapama is a lecturer in Politics, Governance and Development Studies at the University of Namibia. His primary areas of research interest revolve generally around issues of development theory and practice. Among his recent publications are chapters contributed to edited volumes, which focus on politics of constitutional democracy, as well as the interfaces between transitional justice discourses and questions of the agricultural land in Namibia's post settler colonial context. Previously, Mr. Kaapama has worked for Namibia's National Planning Commission, the Namibian Chamber of Commerce and Industry, and the National Youth Council of Namibia. He holds a MSc. degree in Development Administration Planning from the University of Bristol, UK. He regularly gives commentaries in the media on Namibia, as well as on African and global politics.

Liza, Mahfuza

Bangladesh

mahfuzaliza@yahoo.com

Mahfuza Liza is working as a Senior Assistant Superintendent of Police (Planning and Research), at the Police Headquarters in Dhaka, Bangladesh. Her education includes: LL.B (Hons) and L.L.M (with special emphasis on Human Rights and Humanitarian Law) from University of Dhaka. She has served as a legal executive and judicial magistrate before joining the Bangladesh Police in 2008. In 2013-2014, she worked as a Deputy Commander of Bangladesh Female Contingent in the UN Peacekeeping Mission in Haiti. Her goal is to contribute in peace building and protecting human rights.

Mrutu, Makihiyo

Tanzania

tartoo@yahoo.com

Makihiyo Mrutu works as an investigation officer at the Commission for Human Rights and Good Governance in Tanzania. She is a social worker and administrator. She did a Bachelor of Arts in Social Work and Social Administration at the Bugema University in Uganda.

Mutenga, Eva

Zimbabwe

evamutenga@yahoo.com

Eva Mutenga holds a Masters degree in International Development Studies. She has skills and experience in conducting research, monitoring and evaluation, human rights based approach (HRBA), sexual gender based violence (SGBV), livelihoods and food security issues. Eva has worked in different parts of Africa, post conflict Liberia, Uganda, Zimbabwe and Ghana and has a special interest in gender and human rights.

Nakaliika, Rahmat

Uganda

skrahmat2002@yahoo.com

Rahmat Nakaliika has served as a state attorney, from November 2008 to date. She has knowledge of public procurement, contract drafting, negotiations as well as reviewing contracts and dispute settlements. She holds a Bachelor's degree from Makerere University (Uganda), a Master's degree in Intellectual property from Africa University (Zimbabwe) and is currently pursuing a masters of Law (LL.M.) from Loyola University Chicago (USA) (LL.M. in Rule of Law for Development).

Ndishangong, Nancy

Cameroon

ndishnancy@yahoo.com

Nancy Ndishangong has a Bsc in Gender studies and law from the university of Buea in Cameroon. She has worked with the Integrated Development Foundation from December 2012 to December 2013 as a project officer and presently works with Plan Cameroon as a field facilitator in one of their project units.

Nzeyimana, Jean-Berchmans

Burundi

nzeyimanajeanberchmans@yahoo.fr

Jean-Berchmans Nzeyimana holds a Master's degree in Governance and Development from the University of Antwerp. At this moment, he works as an advisor in the President's office in Burundi. He is also working on a PhD research proposal on post-conflict governance: what public policy to take for the victims in order to alleviate poverty inclusively for sustainable peace? He intends to research the transitional justice process in Burundi, more specifically transformative and constructive justice through armed conflict orphans and widows' empowerment for reconciliation and peace-building.

Reyes, Jaymie Ann

Philippines

jareyes@aseanhrmech.org

Jaymie Ann Reyes is the Programme Manager for the Working Group for an ASEAN Human Rights Mechanism, an informal coalition of human rights advocates from government institutions and NGOs working to support and strengthen human rights mechanisms in the ASEAN region. She is also a staff lawyer of Ateneo Human Rights Center, handling the ASEAN Human Rights advocacy desk. also In addition, she teaches International Refugee Law part time in her alma mater, Ateneo Law School. She volunteers as a paralegal and resource person for advocacy for the Office of the Adviser on the Peace Process—on the Bangsamoro Peace Process.

Senchurey, Rajendra

Nepal

rajendrasenchury@yahoo.com

Rajendra Senchurey is the 2012 gold medalist of the Tribhuvan University Nepal for Conflict, Peace and Development studies pursued under NOMA Fellowship in Nepal and in Sri Lanka. Besides publishing 'Conflict Management - Biannual', he also regularly contributes to popular national dailies. Furthermore, he was involved in the Development Report of 'Global Youth Development Magazine' publishing from Finland. As an ASD Policy Research Fellow 2013, he conducted a policy study in reparative justice. In 2014, he worked in 'Good governance and Human Rights' project of the Peace Corps Norway, in India. At present, he is designated as Research Fellow in the Samata Foundation.

Siang'andu, Ellah Twaambo

Zambia

ellasiangandu@yahoo.com

Ellah Twaambo Siang'andu is a Doctoral Candidate at the University of South Africa. She holds an LLM in Public International Law from the University of Nottingham and an LLB with Honours from the University of Hull. Ms. Siang'andu is currently a full time lecturer of Law at the University of Zambia, where she teaches International Law, Law of International Institutions and Alternative Dispute Resolution. Ellah's research interests lie in International Law, International Criminal Justice, International Criminal Law and Transitional Justice.

Simwa, Vivienne

Kenya

vcawino@gmail.com

Vivienne Simwa has been working at the Monitoring and Evaluation Department of the Kenyan Ministry of Devolution and Planning since 2004. This department is charged with the responsibility of coordinating the implementation of the national integrated monitoring and evaluation system (NIMES).

Thys, Pieter

Belgium

Pieter.Thys@broederlijkdelen.be

Pieter Thys is a graduate of linguistics and social and cultural anthropology. He is currently working for the Belgian NGO Broederlijk Delen in Haiti, supporting the work of 3 human rights organizations in the capital of Port-au-Prince and the Department of the North-West. He previously worked as a program facilitator for a country-wide children's rights program in the Philippines. Before that, he was subsequently volunteering for an educational support program in Plettenberg Bay, South Africa, and in an upland development program with indigenous communities in Mindanao, southern Philippines.

Viteri Custodio, Daniela

Peru

danielavitericustodio@yahoo.es

Daniela Viteri Custodio has a Law degree from the Universidad Nacional de Trujillo, Peru and a Master in Human Rights from the Pontificia Universidad Catolica del Peru. She is a lawyer and a Senior Human Rights Legal Adviser of the Ministry of Justice and Human Rights of Peru.

Wabwire, Joshua

Kenya

wabwirejoshua@yahoo.com

Joshua Wabwire is a human rights lawyer from Kenya. At present, he is an academic involved in research and teaching at the Mount Kenya University School of Law. He holds an LLM degree, with distinction, in International Human Rights Law. His area of interest is human rights law in general – he studies and researches on human rights instruments and institutions, and the enforcement processes. He has a specific research interest in transitional justice mechanisms, with a bias towards international criminal justice.

PARTICIPANTS OF THE FIRST MODULE**Aakash, Kumar**

India

aakashsah@gmail.com

Kumar Aakash belongs to the Jharkhand state, which is the richest state of India in minerals, but still one of the least developed regions. He's an engineering graduate. During his job at a manufacturing unit, he developed an affection towards the rural society. Now he's pursuing a post graduate degree in Rural management at XISS, Ranchi. He wants to contribute in the development process of these areas while preserving the local culture, tradition and environment. Thus, ensuring holistic and sustainable development of the rural society.

Omer, Dursit Abdishekur

Ethiopia

abdishekur@unfpa.org

Dursit Abdishekur Omer is a Strategic Program Manager, with leadership and technical skills and a successful background in planning, implementation, follow up and delivery of multiple programs including 'Adolescent Sexual and Reproductive Health', 'Gender Empowerment', 'HIV Prevention, Care, Support' and 'Maternal Health'. She has a high level of technical capability in strategy and policy development, proposal reviewing and writing and resource mobilization

Rao, Malavika

India

malavikarao12@gmail.com

Malavika Rao is a student currently pursuing her PGDM in Rural Management in Ranchi, India. Her goal is to be part of a stimulating environment where she can apply her knowledge, educational background, abilities and communication skills to the best of my efforts. She has obtained silver and bronze medals by International Award for Young People, Duke of Edinburgh, as well as a Certificate of merit in Environment Education.

Saxena, Devanshi

India

devanshi1992@gmail.com

Saxena Devanshi is currently working on a project with the University of Antwerp, titled 'the global challenge of human rights integration: towards a user's perspective'. She has worked on a prison advocacy project and a government project on criminal justice. She has also written on surrogacy, evergreening of patents and the data protection standards of government schemes. She's a 4th year undergraduate student of the B.A. (LL.B.) Hons. course at the National Law University, Delhi.

Sharma, Yashmin Josephine

India

mailmeyashmin@gmail.com

Yashmin Josephine Sharma hails from a small town in the Northern part of India. She is a graduate in plant biology from the Stella Maris college in Chennai. She is currently pursuing her MBA in Rural Management at XISS in Ranchi. She has worked as an intern in the NGO 'Save the children' on the functioning of juvenile justice boards in Jaipur, Rajasthan. She is very passionate to work in the sector of women and child development.

Singh, Gurbir

India

gurbir.1992@gmail.com

Mr. Singh is a student currently pursuing his PGDM in Rural Management in Ranchi, India. He has a go getter attitude towards work things that interests him. He recently has completed my internship project on 'violence against women and the way forward' and has also developed a concept note on 'The possibility of cross border human trafficking post Nepal Earthquake 2015'.

Van Damme, Ellen

Belgium

ellenvandamme91@gmail.com

Ellen Van Damme holds a Master's degree in Criminology (KU Leuven) and Conflict and Development (UGent). She wrote her Criminology thesis on the reintegration of youth gangs in Honduras. Her last thesis is about (non-)governmental interventions regarding gangs in the DRC and El Salvador. She is planning to do further research in Central America on gangs and development. She has field experience with youth at risk (and gang related youth) in Central America (mostly Honduras) and South Africa.

Wolman, Andrew

United States of America

amw247@yahoo.com

Andrew Wolman is a doctoral candidate at the University of Antwerp and a member of the Law and Development Research Group. He also teaches international law and human rights at the Graduate School of International and Area Studies of Hankuk University of Foreign Studies, in Seoul, Korea. Before joining this faculty, he worked as an Associate at the law firm White & Case, and as an Assistant Counsel at the New York City Department of Transportation.

PARTICIPANTS OF THE SECOND MODULE**Boeykens, Tessa**

Belgium

tessa.boeykens@ugent.be

Tessa Boeykens is a doctoral researcher at the Department of History at the University of Ghent, Belgium. Her areas of expertise include transitional justice, non-Western and post-conflict approaches to time and historicity and human rights. She has 3+ years of professional experience in ethnographic fieldwork and working with NGO's in Guatemala. Also, she coordinates the interdisciplinary research forum TAPAS/Thinking About the PAST, is a member of the International Network for Theory of History and volunteers for CATAPA, activating for sustainable development around mining projects in Latin America.

Johannes, Warren

South Africa

warren.johannes@ua.ac.be

Warren Johannes holds a Bachelor of Laws and MA in Human Rights law from Fort Hare University, South Africa. Warren is a fellow at the African Leadership Centre and the Conflict, Security and Development Research Group and Mandela Washington Fellowship. He recently completed a six-month lectureship at Makerere University, Uganda, where he taught international law, humanitarian law and diplomacy. His research interests are peace and security, human rights and gender studies.

Nwosu, Hilary

Nigeria

eberechim4u@yahoo.com

Hilary Nwosu is a doctoral researcher who's performing research on human rights law and global digital communication. The objective of his research is to identify challenges confronting human rights in digital communication environment, with focus on privacy and freedom of expression rights. The research investigates if the existing human rights instruments are sufficient in protecting human rights in the digital environment, or if there is a need for a new legal framework. He has an LL.M. degree from the University of Utrecht, Netherlands.

SPEAKERS

AYAT, Mohammed

Morocco - Université internationale de Rabat

ayatt_mohammed@yahoo.fr

Mohammed Ayat has been a Senior Legal Advisor in the Office of the Prosecutor, International Criminal Tribunal for Rwanda since 1997. He is also a Professor of Law at the Mohammed V University, Faculty of Law. He holds a PhD in Law with highest distinction from the Université des Sciences Sociales, (France), Master in Criminal Justice from Université des Sciences Sociales (France), and Master in Sociology from Université Toulouse le Mirail.

ACIRU, Monica

Belgium – KU Leuven

monica.aciru@law.kuleuven.be

Monica Aciru is a doctoral researcher at the Leuven Institute of Criminology (KU Leuven) working on post Truth and Reconciliation Commissions and reparation for victims with a focus on the Sierra Leone TRC and Ghana NRC. She holds a degree in Social Sciences (BA) and Peace and Conflict Studies (MA) from Makerere University (Uganda) and a master degree in Governance and development from the University of Antwerp (Belgium).

AYLWIN, José

Chile – Universidad Austral de Chile

jose.aylwin@gmail.com

José Aylwin is a lawyer specialized in human rights in Latin America, with special focus on indigenous peoples' rights. With studies at the Faculty of Law of the University of Chile in Santiago (1981) and at the School of Law of the University of British Columbia (Canada), where he obtained a Master in Laws degree (1999), he has researched and published for different academic and human rights institutions internationally. He acted as Director of the Instituto de Estudios Indígenas of the Universidad de la Frontera in Temuco, Chile (1994-1997). He teaches Indigenous Peoples' Rights at the School of Law of the Universidad Austral de Chile. He has been a visiting professor at McGill University in Montreal, Canada (2012). He currently acts as Co-director of the Observatorio Ciudadano (Citizens' Watch), an NGO aimed at documenting, promoting and protecting human rights in Chile. He is part of the National Council of the National Institute for Human Rights of Chile.

BEVERNAGE, Berber

Belgium – Ghent University

Berber.Bevernage@UGent.be

Berber Bevernage is Assistant Professor at the Department of History at Ghent University. Much of his current research focuses on the uses of history and memory after violent conflict, dictatorship or cases of historical injustice. He is especially interested in the politics of time and history that are often at play in societies emerging from these types of situations and which are trying to break with painful or shameful pasts. A related research interest is that in the increasing confluence of the practices of historiography and jurisdiction, which, for example, manifests itself in the growing international preoccupation with historical justice, the establishment of truth commissions and historical commissions, the engagement in reparation politics and the issues of so-called "memory laws" in several countries around the world. Berber has published in journals such as history and theory, memory studies, social history and history workshop journal.

BREMS, Eva

Belgium – Ghent University

eva.brems@ugent.be

Eva Brems is a Professor of Human Rights Law at Ghent University. Before joining the Ghent University Law Faculty in September 2000, she studied law at the universities of Namur (candidat 1989), Leuven (licenciaat 1992) and Harvard (LLM 1995), and she was a PhD researcher at the University of Leuven (1995-1999) and a lecturer at Maastricht University (1999-2000). At Ghent University, she founded the Human Rights Centre. Eva's research interests cover most areas of human rights law, in European and international law as well as in Belgian and comparative law, with a particular emphasis on the protection of the rights of non-dominant groups and individuals. She has a keen interest in multi- and interdisciplinary research. Eva has been an activist in the board of several Belgian human rights NGOs, including as the chair of the Flemish section Amnesty International (2006-2010), and she was briefly active in politics (as a member of the Belgian federal Chamber of Representatives 2010-2014).

BUSCK-NIELSEN, Virginie Anne Reynald

Belgium – KU Leuven

vclaeysbnielsen@law.kuleuven.be

Virginie Busck-Nielsen holds an M.A. in Law and an M.A. International Politics. For a number of years, she worked on women's rights and micro enterprise projects in Africa (for the World Bank) and on human rights, women's rights and law reform projects in Northern Africa and the Middle East (for the European Union). Currently, she is working as a researcher within the Leuven Institute of Criminology (LINC), Leuven University, on reparations for women victims of sexual and gender based violence (SGBV) in eastern Congo. She recently worked on an EC-funded Daphne project on sexual violence and restorative justice and she is collaborating on socio-economic projects for women in south Kivu, DR Congo, and in Côte d'Ivoire.

CARRANZA, Ruben

USA – International Centre for Transitional Justice

rcarranza@ictj.org

Ruben Carranza is director of the Reparative Justice Programme at the International Centre for Transitional Justice in New York. He obtained his BA and LLB degrees from the University of the Philippines and an LLM from New York University (NYU) in 2005 as a Global Public Service Law Program scholar. He currently works with victims' communities and reparations policymakers in Nepal, Timor-Leste, Indonesia, the Philippines, Iraq, Palestine, Liberia, Ghana, South Africa, and Kenya. He also provides advice on issues involving reparations and war crimes tribunals including the Extraordinary Chambers in the Courts of Cambodia (ECCC) and the International Criminal Court (ICC).

DE FEYTER, Koen

Belgium – University of Antwerp

Koen.defeyter@uantwerpen.be

Koen De Feyter is the Chair of International Law at the University of Antwerp (Belgium), Faculty of Law. He is the Spokesperson of the Law and Development Research Group at the University of Antwerp Legal School, the Convenor of the International research network on 'Localising human rights', Chair of VLIR-UOS (Flemish Interuniversity Council – university cooperation for development); Board Member of the Inter-University Research Network on Law and Development, LAW&DEV; and board member of the academic committee of international summer schools on 'Cinema, human rights, advocacy' (National University of Ireland, Galway), 'Liberty, equality and fraternity' (Utrecht Network) and 'Religion, culture, society' (UCSIA).

DE SARDAN, Jean-Pierre Olivier

France - Ecole des Hautes Etudes en Sciences Sociales

olivierdesardan@lasdel.net

Jean-Pierre Olivier de Sardan is a leading French and Nigerian anthropologist, currently Professor of Anthropology at the Ecole des Hautes Etudes en Sciences Sociales in Marseilles. He was formerly Director of Research at the Centre National de la Recherche Scientifique in Paris, but normally resides in Niamey, Niger where he has conducted research since the 1960s. His recent work has focused on local powers and decentralisation in the context of stratified societies in Africa and political corruption among state actors in cash-starved African contexts. He has also observed health provision, both traditional and western, as it operates in West Africa.

DESTROOPER, Tine

New York – NYU's Law School

tinedestrooper@gmail.com

Dr. Tine Destrooper's work involves research on the local relevance of human rights and on the gendered nature of inequalities with regards to social and economic rights. She is also currently working on several papers regarding the local relevance of transitional justice processes. Tine is currently Managing Director at the Center for Human Rights and Global Justice of NYU's Law School, and has worked as a post-doctoral researcher at the universities of Leiden and Antwerp. She obtained her PhD in Social and Political Sciences at the European University Institute in Florence, where she specialized in the relationship between armed conflict, social movements and gender. Before this she studied at University College London and the University of Brussels, where she completed a Master in Politics, Security and Integration and a Bachelor in European Politics. Tine has worked as an intern at the United Nations Commissioner for Human Rights, the Belgian Ministry of Foreign Affairs, and has participated in many conferences in her field of expertise.

DERLUYN, Ilse

Belgium – Ghent University

ilse.derluyn@ugent.be

Ilse Derluyn obtained her PhD in Pedagogical Sciences at Ghent University (Belgium) and is currently affiliated as lecturer to the Department of Social Work, Ghent University, where she teaches courses in migration and refugee studies. Ilse is also co-director of the Centre for Children in Vulnerable Situations, an interuniversity centre researching the psychosocial well-being of children in vulnerable situations in the South (www.centreforchildren.be). Ilse's main research topics concern the psychosocial well-being of migrant and refugee children, child soldiers, unaccompanied minors, war-affected children and victims of trafficking.

GOSSMAN, Patricia

Belgium – Human Rights Watch

gossman@yahoo.com

Dr. Patricia Gossman is Senior Researcher on Afghanistan at Human Rights Watch. She has investigated and reported on human rights violations in Afghanistan and elsewhere in South Asia for the past twenty-five years. She founded the Afghanistan Justice Project and has worked on human rights issues for US Institute of Peace, the International Center for Transitional Justice (ICTJ), and Human Rights Watch. Her list of publications is extensive, including detailed reports documenting war crimes and human rights violations and research focusing on disarmament, electoral vetting and transitional justice.

INGELAERE, Bert

University of Antwerp

bert.ingelaere@ua.ac.be

Bert Ingelaere is a post-doctoral research fellow from the Research Foundation - Flanders (FWO), Belgium. He is affiliated with the Institute of Development Policy and Management (IOB), University of Antwerp (UA) and the Centre for Research on Peace and Development (CRPD), University of Leuven (KULeuven). His research focuses on the (micro-) dynamics of violence/genocide and transitional justice, poverty, socio-economic mobility, ethnicity and governance issues in Africa's Great Lakes region where he conducted over 38 months of fieldwork since 2004. He was advisor or expert for international NGOs, the Belgian Ministry of Foreign Affairs, The World Bank, the International Criminal Tribunal for Rwanda (ICTR) and a postdoctoral fellow at the Program on Order, Conflict and Violence (OCV), Yale University.

HULS, Nick

Netherlands – Leiden University

n.j.h.huls@law.leidenuniv.nl

Nick Huls is emeritus professor of socio legal studies at the Van Vollenhoven Institute of Leyden University and honorary professor at the University of Rwanda and the University of Pretoria. From May 2011 until December 2013 he was Vice rector Academic affairs at the Institute for Legal Practice and Development (ILPD) in Nyanza, Rwanda. He is currently working on a book called "Rwanda: Een Rechtsstaat In De Mist".

LETSCHERT, Rianne

The Netherlands- University of Tilburg

r.m.letschert@tilburguniversity.edu

Prof. Rianne Letschert is professor of victimology and international law at the International Victimology Institute Tilburg (INTERVICT). She defended her PhD thesis in 2005. The title of her PhD is The Impact of Minority Rights Mechanisms. At INTERVICT she works on issues such as victims' rights and human security issues, more particular on international lawmaking in the field of victims' rights and victims of international crimes, in particular reparations. She is member of the Board of Governance of the Dutch Victim Support Organization, and expert consultant for the Special Tribunal for Lebanon on victim issues. In 2013, she was appointed to the Royal Young Academy of Sciences.

MULEEFU, Alphonse

Rwanda – University of Rwanda

a.muleefu@ur.ac.rw

Alphonse Muleefu (PhD, LLM & LLB); has a Doctor's Degree in Law from Tilburg University – Netherlands, LLM in International and European Public Law from the same University and LLB from the National University of Rwanda. He has worked as a Research Student and Legal Researcher at the International Criminal Tribunal for Rwanda (ICTR) and as a Legal Intern at the Victims Participation and Reparation Section (VPRS) of the International Criminal Court (ICC). In Rwanda he worked as a Legal Officer in the National Service of Gacaca Courts and as a member of civil society. He is currently a Lecturer and Acting Director of Research and Post-graduate Studies at the University of Rwanda – College of

Arts and Social Sciences (UR-CASS). His research interest is in Gacaca Courts and Transitional Justice in general, International Criminal Law, Laws of War (International Humanitarian Law) and human rights with a focus on victims' rights.

NYAWO, James

University of Khartoum

j_nyawo@hushmail.com

Since graduating from the University of Zimbabwe in 2000, Dr. Nyawo has worked extensively in sub-Saharan Africa in conflict and post-conflict settings with IDPs, refugees and demobilised rebel groups principally in Angola, Northern Uganda, Sudan and South Sudan. His experience includes negotiating humanitarian access with government authorities, designing humanitarian programme frameworks, carrying out assessments and strategic planning. He has recently successfully defended his doctoral thesis, titled "The Selective Enforcement of International Criminal Law: the case of International Criminal Court (ICC) and the African Union" at Middlesex University.

O'ROURKE, Catherine

Northern Ireland – University of Ulster

cf.orourke@ulster.ac.uk

Dr Catherine O'Rourke holds an undergraduate degree in law and politics from Queen's University Belfast and a Masters degree from the London School of Economics Gender Institute. She completed her doctoral work at the TJI under the supervision of Christine Bell and Carmel Roulston. The research examined the engagement by women's movements with transitional justice processes, and the gendered outcomes of transitional justice processes, in Chile, Northern Ireland and Colombia. Dr O'Rourke is Gender Research Coordinator at the Transitional Justice Institute.

PUNJ, Amita

India – National Law University, Delhi

amitapunj@hotmail.com

Dr. Amita Punj is Associate Professor of Law at the National Law University, Delhi. She has also taught at Guru Gobind Singh Indraprastha University, Delhi. After completing her undergraduate degree in law she worked with national and international NGOs on the issues of human rights and social justice. On completion of her post-graduation in law from the University of Delhi, India she pursued specialization in Law in Development from the University of Warwick, U.K. and has been a British Chevening scholar. Apart from research and creation of easily understandable learning material on women's rights, prisoner's rights and Human Rights Commissions in India, she has been engaged in capacity building of activists and lawyers in the area of gender, law and human rights. She has also been a recipient of VEWA fellowship for research and teaching in Europe. She is currently engaged in research on the legal dimensions of economic globalization especially with respect to their impact on the marginalized in India.

RAUSENBACH, Mina

Belgium – KU Leuven

mina.rauschenbach@law.kuleuven.be

The subject of Dr. Rausenbach's doctoral thesis concerned the role of legal and moral dimensions on the attribution of criminal responsibility for fatal road traffic offences. She worked as a Research Fellow between 2011 and 2013 at the Geneva Academy of International Humanitarian Law and Human Rights on an interdisciplinary study on the perspective of individuals accused at the International Criminal Tribunal for the former Yugoslavia (ICTY). Previously, she worked on a qualitative research at the Faculty of Law of the University of Geneva on the influence of emotions on the increasing importance given to the victim in the legal system and the social scene. She was also a teaching assistant for the Criminology course at the Faculty of law of the University of Geneva. Finally, she was as an assistant at the Faculty of Psychology of the University of Geneva working on a research on the social representation of discrimination in the framework of the European Court for Human Rights. She is currently a post-doctoral research fellow at the Institute of Criminology at KU Leuven studying the role of various transitional justice dimensions and intergroup processes (collective guilt and acknowledgement of responsibility) in relation to support for reconciliation in Bosnia and Serbia.

SAEED, HUMA

Belgium – KU Leuven

huma.saeed@law.kuleuven.be

Huma Saeed is currently a PhD researcher at the Leuven Institute of Criminology (KU Leuven). Prior to this, she worked as a human rights and justice program officer with the UNDP in Kabul, Afghanistan. She holds an MA. degree in Human Rights from the London School of Economics and Political Science and a BA in Political Science from the University of

Maryland, Baltimore Country. Ms. Saeed worked as a human rights and women's rights advocate for many years in Afghanistan, Pakistan and internationally.

SCHOTSMANS, Martien

Belgium – KU Leuven

martien.schotsmans@rcn-ong.be

Martien Schotsmans holds a Masters in Law, a Masters in Criminology and a Post-Graduate in International Politics from KU Leuven. She has worked as a private practice lawyer in Belgium for about ten years, mainly in criminal law. In the following years, she was in Rwanda with Avocats Sans Frontières to provide legal assistance to accused and victims of genocide in domestic trials, in Chad with FIDH to conduct investigations in the Hissène Habré case and in Sierra Leone with the Truth and Reconciliation Commission. After that she worked with Avocats Sans Frontières to organize legal assistance for defendants and victims of international crimes in domestic trials in the DRC and at the ICC. In between, Martien did consultancies on judicial reform, on GBV and transitional justice in Rwanda, DRC, Benin, Morocco, etc. More recently, she conducted research in the field of transitional justice in Sub-Saharan Africa and more in particular on the role of tradition-based justice. She worked until 2013 at the Leuven Institute of Criminology at KU Leuven (Belgium) where she provides research support and teaching assistance. She is also preparing a PhD on the topic of “Globalisation and Localisation in Transitional Justice and the challenges for tradition-based justice”.

SCHMID, Evelyne

Switzerland

evelyne.schmid@unibas.ch

Evelyne Schmid is a post-doctoral researcher and lecturer at the University of Basel. She holds a PhD in International Law from the Graduate Institute of International and Development Studies (IHEID) in Geneva, a Master of Law and Diplomacy from the Fletcher School at Tufts University and a Masters in International Relations from the University of Geneva. Between 2011 and 2014, Evelyne Schmid was a lecturer of international and European law at the University of Bangor, Wales, where her research explored the extent to which various branches of international law address harm and injury arising from armed violence. She previously completed a doctoral fellowship at Harvard Law School and was the project coordinator for the International Criminal Court's Legal Tools Project at TRIAL, the Swiss Association against Impunity, a board member of Amnesty International Switzerland and the researcher for the United States Institute of Peace (USIP) Truth Commission Digital Collection. She is a member of the International Law Association Study Group on Due Diligence in International Law and previously the Committee on Reparations for Victims of Armed Conflict. Her recent publications include “Taking Economic, Social and Cultural Rights Seriously in International Criminal Law” and “Do No Harm? Exploring the Scope of Economic and Social Rights in Transitional Justice or Distinguishing Types of ‘Economic Abuses’: A Three-Dimensional Model.”

SRIRAM, Chandra Lekha

United Kingdom – University of East London

c.sriram@uel.ac.uk

Chandra Lekha Sriram is Professor of International Law and International Relations at the University of East London, where she is founder and Director of the Centre on Human Rights in Conflict at the University of East London. She is currently the principal investigator on an ESRC-funded research project on The Impact of Transitional Justice Mechanisms on Democratic Institution-Building, in partnership with Dr. Anja Mihr of the Hague Institute for Global Justice, who is the principal investigator on the Dutch counterpart of the grant, funded by NWO. Most recently, she has also been the principal investigator on a grant from the British Academy, in collaboration with Thomas Obel Hansen of the US International University in Nairobi, on the role of civil society in promoting accountability for serious crimes in Kenya (2013-2014), and 2010-2012, she was the principal investigator on a grant funded by the US Institute of Peace on victim-centred approaches to justice and reintegration of excombatants. Professor Sriram received her PhD in Politics from Princeton University in 2000, her JD from the University of California, Berkeley, Boalt Hall School of Law in 1994, and her MA in International Relations and BA in Political Science from the University of Chicago in 1991.

SMETS, Lode

Belgium – KU Leuven

Lode.smets@kuleuven.be

Lodewijk Smets is as trained as an economist at KU Leuven. In March 2014, he obtained a PhD in Applied Economics from the University of Antwerp, specializing in aid effectiveness. He spent part of his PhD at the World Bank's Research Group, working together with Stephen Knack. Currently, he is employed as a post-doctoral fellow at LICOS, KU Leuven. As part of a World Bank research team, he is also in charge of a randomized impact evaluation in Eastern DRC. The goal

of the impact evaluation is to investigate how a temporary public works program can contribute to peace and stability in the East of Congo.

SMIS, Stefaan

Belgium – Free University Brussels

stefaan.smis@vub.ac.be

Stefaan Smis is professor at the Faculty of Law and Criminology of the Vrije Universiteit Brussels (VUB). His research focuses on international law, international protection of human rights, settlement of international disputes, states in transition, the prosecution of grave violations of human rights, relationship between human rights and international humanitarian law, and regional integration in Africa. Stefaan also holds teaching positions at the University of Westminster (UK – London), at the Belgian Royal Higher Institute for Defense and at the Université Catholique de Bukavu (UCB) in the Democratic Republic of Congo, where he created the Centre Régional des Droits de L’homme et de Droit International Humanitaire as a interuniversity development cooperation project between the VUB and the UCB. He has been a guest lecturer at the University of Georgia (USA), the University of Ghent (Belgium), the University of Antwerp (Belgium), the Catholique University of Bukavu (DR Congo) and the University Eduardo Mondlane (Mozambique).

SULLO, Piero

Italy

pierosullo1974@gmail.com

TARARAS, Konstantinos

Greece – UNESCO

k.tararas@unesco.org

Since January 2001 Konstantinos Tararas works as a human rights specialist in the Public Policies and Capacity-building Sections at UNESCO Headquarters in Paris, France. In this capacity and in liaison with both inter-governmental and non-governmental organizations, he has coordinated and assisted in the execution of educational and training programs of UNESCO in relation to human rights issues, in particular economic, social and cultural rights. Previously, he has worked for the Greek section of the European Court of Human Rights and as a legal research assistant in human rights for the Commissioner of Human Rights at the Council of Europe.

VANDEGINSTE, Stef

Belgium – Institute of Development and Policy Management (IOB)

stef.vandeginste@uantwerpen.be

Stef Vandeginste has a PhD in Law from University of Antwerp, Belgium. He is a lecturer in Governance, Conflict and Development at the Institute of Development Policy and Management (IOB), University of Antwerp. His research interests include political transitions, human rights, transitional justice, power-sharing, post-conflict state-building and contemporary history of Central Africa, with a focus on Burundi.

VANDENBOGAERDE, Arne

Belgium – University of Antwerp

arne.vandenbogaerde@uantwerpen.be

Arne Vandenbogaerde is a post-doctoral fellow at the Law and Development research group at the Faculty of Law. He holds a MA degree in international relations (University of Ghent) and obtained an LLM in International Human Rights Law from the Irish Centre for Human Rights (Galway, Ireland). Previous to his current research at the University of Antwerp he worked with several NGOs and intergovernmental organisations such as the FAO Right to Food Unit. Until recently he was the programme coordinator of the Research Networking Programme “Beyond Territoriality: Globalisation and Transnational Human Rights Obligations (GLOTHRO)”. His main research interests include international human rights law, in particular economic, social and cultural rights and the issue of extraterritorial and transnational human rights obligations.

ORGANISING COMMITTEE

BELLINKX, Vincent

Belgium – University of Antwerp
vincent.bellinkx@uantwerpen.be

Vincent Bellinkx is a teaching assistant in the field of Human Rights and Law and Development at the University of Antwerp. He graduated in law at the University of Antwerp (Belgium) and did previous study and research exchanges at the University of Namur (Belgium), National Law University Delhi (India) and Stellenbosch University (LL.M. South Africa). Before starting his PhD project on law and development, he worked as project-manager in the UNITAR branch Antwerp-ITCCO on corporate sustainability and business and human rights.

CORRADI, Gisele

Argentina / Belgium – Ghent University
giselle.corradi@ugent.be

Giselle Corradi is a post-doctoral researcher at the Human Rights Centre at the Law Faculty of Ghent University. She studied law in Buenos Aires before moving to Ghent, where she completed her Masters in Comparative Studies of Culture (2005) and her PhD in Law (2012). Her research focuses on the interplay between human rights and legal pluralism in Latin America and sub-Saharan Africa. Before joining the Human Rights Centre in 2008, Giselle Corradi worked as a consultant for fair trade projects in Guatemala and Peru for the Durabilis Foundation (2006-2007).

DESMET, Ellen

Belgium – Ghent University / University of Antwerp
e.desmet@uantwerpen.be

Ellen Desmet is a post-doctoral fellow at the Human Rights Centre of Ghent University and the Law and Development Research Group of the University of Antwerp. She is the project manager of the Interuniversity Attraction Pole “The Global Challenge of Human Rights Integration: Towards a Users’ Perspective”. Before that, Ellen was researcher and policy staff member at the Children’s Rights Knowledge Centre, and a substitute lecturer in anthropology of law at the KU Leuven. She complemented her law studies with a master in Cultures and Development Studies (KU Leuven) and a master in Development Cooperation (UGent), and holds a PhD in Law from the KU Leuven. Her research interests are situated in the fields of human rights (including children’s rights and indigenous peoples’ rights), legal anthropology and research methodology.

LEMBRECHTS, Sara

Belgium – Children’s Rights Knowledge Centre (KeKi)
sara.lembrechts@keki.be

For three years now, Sara Lembrechts has been fulltime staff member at the Children’s Rights Knowledge Centre (KeKi), where she is responsible for the collection and dissemination of children’s rights research, as well as for policy advice to the Flemish government. She has a MA in Childhood Studies & Children’s Rights from the Free University of Berlin (Germany), as well as an LL.M. in International & European Law and a BA in European Studies, both from the University of Maastricht (Netherlands). She has experience as an intern with Amnesty International in New Zealand, with UNICEF in Geneva and with the Belgian National Commission on Children’s Rights (NCRK). In addition, she has regularly assisted KeKi with the organization of the international summer schools, including the international children’s rights course ICCR in 2010, and the first two editions of HR4DEV in 2012 and 2014.

PARMENTIER, Stephan

Belgium – KU Leuven
stephan.parmentier@law.kuleuven.be

Stephan Parmentier studied law, political science and sociology at the universities of Ghent and Leuven (Belgium) and sociology and conflict resolution at the Humphrey Institute for Public Affairs, University of Minnesota-Twin Cities (U.S.A.). He currently teaches sociology of crime, law, and human rights at the Faculty of Law of the University of Leuven and is the former head of the Department of Criminal Law and Criminology (2005-2009). He is in charge of international relations in criminology at Leuven University and in July 2010 was appointed Secretary-General of the International Society for Criminology (re-elected in August 2014). He also serves on the Advisory Board of the Oxford Centre of Criminology and the International Centre for Transitional Justice (New York). All over the globe he has served as a visiting professor (Oñati, San José, Sydney, Tilburg, Tokyo), visiting scholar (Oxford, Stellenbosch, Sydney) and guest lecturer in the fields of human rights, criminology and socio-legal studies. His research interests include political crimes and transitional justice, human rights and asylum, and restorative justice and peacebuilding.

VANDENHOLE, Wouter

Belgium – University of Antwerp
wouter.vandenhole@uantwerpen.be

Wouter Vandenhole teaches human rights and holds the UNICEF Chair in Children's Rights – a joint venture of the University of Antwerp and UNICEF Belgium – at the Faculty of Law of the University of Antwerp (Belgium). He is the spokesperson of the Law and Development Research Group and chairs the European Research Networking Programme GLOTHRO. His research aims at exploring the interaction between, and mutual enrichment of, children's rights and human rights in the field of economic, social and cultural rights. Particular attention is paid to the mobilization of children's rights in the Global South.

VERDONCK, Lieselot

Belgium – Ghent University
Lieverdo.verdonck@ugent.be

Lieselot Verdonck is a doctoral researcher at the Human Rights Centre of Ghent University and the Law and Development Research Group of the University of Antwerp. She is a fellow of the Research Foundation Flanders (FWO). Lieselot holds a Bachelor and a Master's degree in law from Ghent University (2010 and 2012). In addition, she obtained an LL.M. degree in International Human Rights Law from Harvard University in 2013. Her research interests relate to business and human rights in developing countries, in particular in relation to the extractive industry.

ZINSSTAG, ESTELLE

Belgium – KU Leuven
estelle.zinsstag@law.kuleuven.be

Estelle Zinsstag is a senior researcher at the Leuven Institute for Criminology, University of Leuven (Belgium). She has recently finalised as the coordinator and co-principal researcher a European Commission funded (Daphne III) project entitled 'Developing integrated responses to sexual violence: An interdisciplinary research project on the potential of restorative justice'. She has been previously to that awarded an F+ KU Leuven Post-Doctoral Fellowship to work as part of the team of the FP7 Project ALTERNATIVE. She has also lead a project for the European Forum for Restorative Justice funded by a European Commission action grant on 'Conferencing: A way forward for restorative justice in Europe'. She publishes in the fields of sexual violence against women, transitional justice, and restorative justice. She is founding member and managing editor of *Restorative Justice: An International Journal*. In recent years she completed a PhD entitled 'Sexual Violence against Women in Armed Conflict: Towards a Transitional Justice Perspective' at the School of Law, Queen's University Belfast (UK).

STUDENT ASSISTANTS**BOLLENS, Sven**

Belgium – KU Leuven
Sven.bollens@student.kuleuven.be

Sven Bollens is one of the student assistants who are involved in the organization of this edition of HR4DEV. After obtaining the MSc. in Criminology from the KU Leuven, he started studying Law.

KO, Anna

Belgium – KU Leuven
annako86@gmail.com

Anna Ko is one of the student assistants who are involved in the organization of this edition of HR4DEV. She holds an LL.B, BA and LL.M (specializing in Law, Governance and Development) from the Australian National University.



The training programme was organized jointly by



With the financial support of

